

ADMINISTRATIVE PANEL DECISION

Shamrock Food Company v. Drake Digit
Case No. D2025-0630

1. The Parties

Complainant is Shamrock Food Company, United States of America (“United States” or “U.S.”), represented by Polsinelli PC, United States.

Respondent is Drake Digit, United States.

2. The Domain Name and Registrar

The disputed domain name <shaamrockfoods.com> (the “Disputed Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 18, 2025. On February 18, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On February 18, 2025, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Disputed Domain Name which differed from the named Respondent (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to Complainant on February 19, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on February 24, 2025.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified Respondent of the Complaint, and the proceedings commenced on February 25, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 17, 2025. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on March 18, 2025.

The Center appointed Douglas M. Isenberg as the sole panelist in this matter on March 21, 2025. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

Complainant states that it was founded in 1922, that it “manufactures and distributes food and food-related products, dairy, and foodservice, specifically including delivery of Shamrock products to vendors”, and that it uses the domain name <shamrockfoods.com>. Complainant states that it owns multiple trademark registrations for marks that contain “Shamrock Foods”, including the following, for which it provided copies of relevant certificates of registration (the “SHAMROCK FOODS Trademark”):

- U.S. Reg. No. 1,618,160 for SHAMROCK FOODS COMPANY (registered October 16, 1990) for use in connection with “distributorship services relating to food products and non-food products used in the food service industry by institutional users”;
- U.S. Reg. No. 1,629,594 for SHAMROCK FOODS COMPANY (registered December 25, 1990) for use in connection with “distributorship services relating to food products and non-food products used in the food service industry by institutional users”; and
- U.S. Reg. No. 5,623,945 for RESTAURANT 360 BY SHAMROCK FOODS (registered December 4, 2018) for use in connection with “business consulting for restaurants and kitchens”.

The Disputed Domain Name was created on January 29, 2025. Complainant states, and provides evidence in support thereof, that it is being used “in order to impersonate [Complainant’s] shamrockfoods.com domain name and engage in phishing attempts or other fraudulent activity” and in connection with “a domain parking page with links to websites unaffiliated with Complainant”. In support thereof, Complainant provided copies of emails sent using an email address with the Disputed Domain Name to one of Complainant’s customers that says, “Please be informed that we have transitioned to electronic funds transfer and will no longer accept paper checks” and providing “the attached updated ACH instructions”.

5. Parties’ Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Disputed Domain Name.

Notably, Complainant contends that:

- The Disputed Domain Name is identical or confusingly similar to the SHAMROCK FOODS Trademark because the Disputed Domain Name “incorporates [Complainant’s] well-known SHAMROCK FOODS Trademarks and only adds a single letter ‘A’ in the domain name itself in order to help impersonate [Complainant’s] <shamrockfoods.com> domain (shamrockfoods.com vs. shaamrockfoods.com)” and “[t]he addition of the extra letter ‘A’ does not diminish the confusing similarity of the Disputed Domain Name with [Complainant’s] SHAMROCK FOODS Trademarks”.
- Respondent has no rights or legitimate interests in the Disputed Domain Name because, inter alia, “Respondent’s primary interest in the domain is to abuse its similarity with [Complainant’s] corporate domain (shamrockfoods.com) for the purposes of engaging in a phishing and spoofing scheme”; “[i]t is well-established that operating a link farm parking page using a trademark in a domain name and providing connection to goods or services competitive with the trademark owner, does not establish rights or legitimate

interests”; “the Disputed Domain Name creates the risk of fraudulent emails being sent to customers, service providers, and suppliers, pretending to be Complainant”; “Respondent cannot claim to be making any legitimate noncommercial or fair use of the Disputed Domain Name” because “the evidence reflects only the Respondent’s intentional male fide use of the Disputed Domain Name in an attempt to profit from and exploit [Complainant’s] SHAMROCK FOODS Trademarks”; and “[t]o the best of [Complainant’s] knowledge, the Respondent has never been commonly known by the Disputed Domain Name”, “[t]o the best of [Complainant’s] knowledge, the Disputed Domain Name is not derived from the Respondent’s name”, and “[a]ccording to the relevant Whois records, the Registrant’s name is Drake Digit”.

- Respondent registered and is using the Disputed Domain Name in bad faith because, inter alia, “[t]he record reveals that the Respondent’s sole motivation in relation to the registration and use of the Disputed Domain Name was to capitalize on or otherwise take advantage of [Complainant’s] trademark rights, in furtherance of a spoofing scheme sought to be perpetrated on Shamrock and [Complainant’s] vendors”; and “[t]he parked page [using the Disputed Domain Name] contains links that connect to advertising or goods/services competitive with the trademark owner which is a clear act of bad faith”.

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between Complainant’s trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[WIPO Overview 3.0](#)”), section 1.7.

Based on the registrations cited by Complainant and the certificates of registration included as annexes, Complainant has shown rights in respect of a trademark or service mark for purposes of the Policy, that is, the SHAMROCK FOODS Trademark. [WIPO Overview 3.0](#), section 1.2.1.

The dominant part of the SHAMROCK FOODS Trademark is reproduced within the Disputed Domain Name, adding only an additional letter “a”.

As set forth in [WIPO Overview 3.0](#), section 1.7, “in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing”. Further, as set forth in [WIPO Overview 3.0](#), section 1.9, “A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element.... Examples of such typos include... the addition or interspersing of other terms or numbers”.

Here, it is obvious that the dominant part of the SHAMROCK FOODS Trademark is recognizable in the Disputed Domain Name and that the additional letter “a” in the Disputed Domain Name is an intentional misspelling that does not prevent a finding of confusing similarity.

Accordingly, the Disputed Domain Name is confusingly similar to the SHAMROCK FOODS Trademark for the purposes of the Policy.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the Disputed Domain Name. Respondent has not rebutted Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Further, panels have held that the use of a domain name for illegal activity – such as phishing, as Complainant has alleged and documented here – cannot enable a respondent to establish rights or legitimate interests. [WIPO Overview 3.0](#), section 2.13.1. (“[p]anels have categorically held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent”).

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, Complainant has alleged and documented that Respondent has registered and used the Disputed Domain Name in connection with phishing activities intended to fraudulently collect payments from Complainant’s customers – an allegation that Respondent has not denied. As set forth in [WIPO Overview 3.0](#), section 3.1.4, “the use of a domain name for per se illegitimate activity such as... phishing... is manifestly considered evidence of bad faith”. And, as set forth in [WIPO Overview 3.0](#), section 3.4, “use of a domain name for purposes other than to host a website may constitute bad faith”, such as “sending email [or] phishing”, especially where “the respondent’s use of the domain name [is] to send deceptive emails” for purposes such as “to solicit payment of fraudulent invoices by the complainant’s actual or prospective customers”. See also, e.g., *Kimley-Horn and Associates, Inc. v. Abraham Hashim*, WIPO Case No. [DCO2019-0017](#) (finding bad faith where respondent “posed as two of Complainant’s actual employees in order to send phishing emails to one of Complainant’s clients in an effort to obtain payment on an allegedly outstanding invoice”).

Accordingly, the Panel finds that Complainant has established the third element of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <shaamrockfoods.com> be transferred to Complainant.

/Douglas M. Isenberg/

Douglas M. Isenberg

Sole Panelist

Date: March 24, 2025