

## **ADMINISTRATIVE PANEL DECISION**

Dart Container Corporation v. negro whales  
Case No. D2025-4042

### **1. The Parties**

Complainant is Dart Container Corporation, United States of America (“United States” or “U.S.”), represented by McGarry Bair PC, United States.

Respondent is negro whales, United States.

### **2. The Domain Name and Registrar**

The disputed domain name <dart-biz.com> is registered with Hostinger Operations, UAB (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 2, 2025. On October 3, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name and another domain name. On October 6, 2025, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name and another domain name which differed from the named Respondent (Undisclosed Registrant) and contact information in the Complaint. The Center sent an email communication to Complainant on October 6, 2025, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting Complainant to either file a separate complaint for the domain name associated with a different underlying registrant or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. Complainant filed an amended Complaint on October 8, 2025, withdrawing another domain name from the proceedings.

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 October 13, 2025. In accordance with the Rules, paragraph 5, the due date for Response was November 2, 2025. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on November 3, 2025.

The Center appointed Michael A. Albert as the sole panelist in this matter on November 7, 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 is the owner of the trademarks listed below for food service products and related plastic ware:

- U.S. Trademark Registration No. 2,599,911 for DART, registered July 30, 2002; and
- U.S. Trademark Registration No. 988,159 for DART and Design, registered July 16, 1974.

According to Complainant, Complainant's marks are registered in no less than 23 other jurisdictions (Argentina, Australia, Brazil, Canada, China, Costa Rica, Denmark, Egypt, Spain, the European Union, United Kingdom, Hong Kong, China, Indonesia, Israel, Mexico, Panama, Peru, Poland, Sweden, Thailand, Türkiye, Taiwan Province of China, and South Africa).

The disputed domain name was registered on April 23, 2025, and does not resolve to an active website. However, Complainant submitted evidence that the disputed domain name was used in the furtherance of a fraudulent email scheme.

#### **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 Complainant's marks.

Respondent should be considered as having no rights or legitimate interests in the disputed domain name as there is evidence Respondent is intentionally using the disputed domain name for commercial gain by misleadingly diverting consumers.

Respondent registered and used the disputed domain name in bad faith. Respondent has misdirected business to itself by impersonating Complainant's employees and contacting customers seeking financial payments.

##### **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.

Here, Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms (here "-biz") may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 names such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for illegitimate activity (here, impersonation or passing oneself off as an employee of Complainant seeking financial payments), can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. Complainant provides evidence of the disputed domain name being used for fraudulent email scheme addressed to Complainant's customer containing a false and fraudulent invoice. Respondent has not rebutted Complainant's evidence in any way.

Accordingly, 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, the Panel notes that Respondent has used the disputed domain name to impersonate an employee of Complainant in a phishing scheme. Respondent used an email address associated with the disputed domain name to impersonate Complainant and seek payment of a fraudulent invoice sent to an individual. Respondent, having failed to respond at all, has not denied this assertion. These circumstances constitute clear evidence of bad faith registration and use of the disputed domain name.

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 <dart-biz.com> be transferred to Complainant.

*/Michael A. Albert/*

**Michael A. Albert**

Sole Panelist

Date: November 21, 2025