ARBITRATION
AND
MEDIATION CENTER

WIPO
WORLD
INTELLECTUAL PROPERTY
ORGANIZATION

ADMINISTRATIVE PANEL DECISION

Hershey Chocolate & Confectionery LLC v. Michael Handell, NY BD Sports LLC
Case No. D2025-4525

1. The Parties

The Complainant is Hershey Chocolate & Confectionery LLC, United States of America ("United States"), represented by Arnold & Porter Kaye Scholer LLP, United States.

The Respondent is Michael Handell, NY BD Sports LLC, United States.

2. The Domain Name and Registrar

The disputed domain name <hersheysales-co.com> is registered with Tucows Domains Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 3, 2025. On November 3, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 3, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 5, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on November 11, 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 the Respondent of the Complaint, and the proceedings commenced on November 14, 2025. In accordance with the Rules, paragraph 5, the due date for Response was December 4, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 8, 2025.

The Center appointed Dennis A. Foster as the sole panelist in this matter on December 17, 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

The Complainant is one of the oldest and most famous cocoa, candy, and confectionary companies in the United States, and now is commercially active all over the world. The Complainant's annual sales total approx. 11 billion United States dollars. The Complainant has a broad Internet presence, for example at its main websites at the domain names <hersheys.com> and at <hersheyland.com>.

The Complainant has numerous United States and foreign HERSHEY'S and HERSHEY trademark registrations ("the HERSHEY trademark or trademarks") including the following:

United States trademark registration no. 54,041, registration date July 19, 1906, International Class 30 for chocolate, cocoa and sweet chocolate; United States trademark registration no. 863,592, registration date January 14, 1969, International Class 30 for same goods per above; and United States trademark registration no. 1,455,684, registration date September 1, 1987, International Class 35 for travel and tourism.

Internationally, the Complainant has registered its HERSHEY trademarks in, e.g., the European Union, China, Argentina, and Japan.

The Respondent is an individual/entity that registered the disputed domain name on May 30, 2025. There is no website at the disputed domain name, but the Respondent has been using email communications from the disputed domain name to impersonate the Complainant and one of its employees while contacting third parties to solicit fraudulent business and payments.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name as follows below:

- By virtue of extensive advertising and sales, the HERSHEY trademarks have become famous throughout the United States and internationally as designating HERSHEY products.

- The Respondent is using the disputed domain name in connection with an email phishing scheme that exploits the HERSHEY trademark.

- The Respondent seeks to capitalize on the fame of the Complainant's long pre-existing HERSHEY trademark.

- The disputed domain name incorporates the Complainant's famous HERSHEY trademark. The Respondent has only added the two terms "sales" and "co", the latter of which signifies "company". Therefore, the disputed domain name is confusingly similar to the Complainant's HERSHEY trademark.

- The Complainant is not affiliated in any way with the Respondent, and has never authorized the Respondent to register or use the disputed domain name containing the Complainant's HERSHEY trademark.

- The Respondent is not commonly known by the disputed domain name.

- The Complainant's use and registration of its HERSHEY trademark precedes by over a century the Respondent's registration of the disputed domain name.

- Given the international fame of the HERSHEY trademark, the Respondent's registration of the disputed domain name could only have been in bad faith.

- The registration and use of a disputed domain name in connection with a fraudulent scheme such as email phishing also constitutes bad faith.

- The disputed domain name should be transferred to the Complainant.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

Pursuant to Policy paragraphs 4(a)(i) - (iii), the Panel may render a decision for the Complainant and grant a transfer of the disputed domain name, if the Complainant establishes that:

- The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;

- The Respondent has no rights or legitimate interests in respect of the disputed domain name; and

- The disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has exhibited copies of some of its United States HERSHEY trademark registrations. The Panel finds this is proof the Complainant has trademark rights in this name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), section 1.2.1.

The Panel notes that in the disputed domain name, the Respondent has added the terms "sales" and "co", but the Panel finds the Complainant's trademark is still clearly recognizable in the disputed domain name, and therefore the disputed domain name is confusingly similar to the Complainant's trademark. WIPO Overview 3.0, sections 1.7 and 1.8.

The Panel finds, then, that the Complainant has carried its burden of proof under Policy paragraph 4(a)(i) to show that the disputed domain name is confusingly similar to the Complainant's trademark.

B. Rights or Legitimate Interests

Owing to the difficulty of proving a negative, it is acceptable under the Policy that the Complainant first make out a prima facie case that the Respondent does not have rights or legitimate interests in the disputed domain name. The burden of production then shifts to the Respondent to come forward with evidence tending to show the Respondent does have rights or legitimate interests in the disputed domain name, although the overall burden of proof remains on the Complainant. WIPO Overview 3.0. section 2.1.

The Complainant contends that it has not authorized the Respondent to use its trademark in the disputed domain name, and that it has no relationship with the Respondent. The Panel finds this constitutes a prima facie case under the Policy. WIPO Overview 3.0, section 2.1.

Being in default in this proceeding, the Respondent has not come forward to rebut the Complainant's prima facie case. Nevertheless, for the sake of fairness, the Panel will examine the record to see whether there might be evidence that the Respondent could have rights or legitimate interests in the disputed domain name as allowed under Policy paragraphs 4(c)(i), (ii), and (iii).

Under Policy paragraph 4(c)(i), the Respondent would have to show that, before it received notice of this proceeding, it was using the disputed domain name to make a bona fide offering of goods or services. However, the Respondent has been using the disputed domain name to impersonate via email the Complainant and its personnel, and to "phish" for payments from the Complainant's likely clients. This is not a bona fide offering of goods or services, but is instead a bad faith use of the disputed domain name. WIPO Overview 3.0, section 2.13.1. See *Kimley-Horn and Associates, Inc. v. Abrahim Hashim*, WIPO Case No. DCO2019-0017 where the Panel found "The use of the domain name for such a fraudulent purpose as phishing, obviously cannot be held to constitute a bona fide use of the disputed domain name." Also in *Accenture Global Services Limited v. Yankee, yankees*, WIPO Case No. D2018-0217 finding no rights or legitimate interests where "Respondent has apparently used an email address connected to the disputed domain name to mislead vendors of the Complainant into paying fraudulent invoices."

Further along, the Respondent is not commonly known by the disputed domain name as would be allowed under Policy paragraph 4(c)(ii). Lastly, the Respondent's email phishing scheme certainly is not a noncommercial or fair use deployment of the disputed domain name as allowed under Policy paragraph 4(c)(iii).

The Panel thus finds the Complainant has carried its burden of proof under Policy paragraph (4)(a)(ii) to show that the Respondent does not have rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

The Policy at paragraph 4(b) lays out four non-exclusive circumstances that might lead a panel to find that a disputed domain name was registered and is being used in bad faith. The Panel finds that Policy paragraphs 4(b)(i),(ii), (iii) and (iv) circumstances are not applicable to our present case, but that the Respondent has nonetheless registered and is using the disputed domain name in bad faith per the reasons below. WIPO Overview 3.0, section 3.2.1.

The Panel finds that the fame of the Complainant's HERSHEY trademark, particularly in the United States where the Respondent is located, shows that the Respondent was familiar with the Complainant and its trademark when the Respondent registered the disputed domain name. The Respondent's use of the disputed domain name in an email phishing scheme has been widely found by panels to be a bad faith use, and the Panel so finds in this case. WIPO Overview 3.0, section 3.4. See *Clifford Chance LLP v. Domain Administrator, See PrivacyGuardian.org/rayzy dynamics*, WIPO Case No. D2019-2127, where the panel found bad faith use of the disputed domain name for "[…] purposes of sending a phishing email […]".

Finally, the Panel agrees with the Complainant that the Respondent's registering a disputed domain name confusingly similar to a trademark with the fame caliber of HERSHEY is "opportunistic" bad faith under the Policy. See *Accenture Global Services Limited v. Registration Private, Domains By Proxy, LLC/John V*, WIPO Case No. D2020-0189.

The Panel therefore finds that the Complainant has carried its burden of proof under Policy paragraph 4(a(iii) to show that the Respondent has registered and is using the disputed domain name in bad faith.

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 <hersheysales-co.com> be transferred to the Complainant.

/Dennis A. Foster/
Dennis A. Foster
Sole Panelist
Date: December 31, 2025