

## **ADMINISTRATIVE PANEL DECISION**

Syngenta Participations AG v. Privacy Service Provided by Withheld for Privacy ehf / Gary Lloyd, firefox.com  
Case No. D2022-0946

### **1. The Parties**

The Complainant is Syngenta Participations AG, Switzerland, represented by Michelle O’Neil, Switzerland.

The Respondent is Privacy service provided by Withheld for Privacy ehf, Iceland / Gary Lloyd, firefox.com, United Arab Emirates.

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

The disputed domain name <sgnyenta.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 March 11, 2022. On March 17, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On March 17, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 April 5, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 25, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 2, 2022.

The Center appointed Nicholas Weston as the sole panelist in this matter on May 13, 2022. 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 operates a global, science-based AgTech company with 28,000 employees in 90 countries. The Complainant holds registrations for the trademark SYNGENTA in a number of countries, including International Registration No. 732663, registered since March 8, 2000.

The Complainant is also the owner of, *inter alia*, the domain name <syngenta.com>, which resolves to the Complainant's main website containing information about the company's business.

The Disputed Domain Name <sgnyenta.com> was registered on January 15, 2022. The Complainant has supplied uncontested evidence that the Disputed Domain Name is connected to a fraudulent email scheme that uses the Complainant's mark and a "...@sgnyenta.com" email address to impersonate an employee of the Complainant's credit department in an email communication in an attempt to obtain a misdirected payment.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant cites its trademark registrations of the trademark SYNGENTA in various countries as *prima facie* evidence of ownership.

The Complainant submits that the mark SYNGENTA is well-known and that its rights in that mark predate the Respondent's registration of the Disputed Domain Name. It submits that the Disputed Domain Name is confusingly similar to its trademark, because the Disputed Domain Name incorporates in its entirety the SYNGENTA trademark and that the similarity is not removed by the swapping of the letters "y" and "g" with each other and addition of the generic Top-Level Domain ("gTLD") ".com".

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because it is being used to perpetrate an email scam, and contends that such the Respondent has no rights or legitimate interests in the Disputed Domain Name.

Finally, the Complainant alleges that the registration and use of the Disputed Domain Name was, and currently is, in bad faith, contrary to the Policy and Rules having regard to the fame and long standing prior use of the Complainant's trademark, and that it was being used to further the perpetration of a fraud as part of a "phishing" scheme.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

Under paragraph 4(a) of the Policy, the Complainant has the burden of proving the following:

- (i) that the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and
- (iii) that the Disputed Domain Name has been registered and is being used in bad faith.

## A. Identical or Confusingly Similar

The Complainant has produced sufficient evidence to demonstrate that it has registered trademark rights in the mark SYNGENTA in numerous countries. The requirements of the first element for purposes of the Policy may be satisfied by a trademark registered in any (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 1.2.1).

Turning to whether the Disputed Domain Name is identical or confusingly similar to the SYNGENTA trademark, the Panel observes that the Disputed Domain Name comprises: (a) an exact reproduction of the Complainant’s trademark SYNGENTA; (b) with the letters “g” and “y” swapped with each other; (c) followed by the gTLD “.com”.

It is well-established that the gTLD used as technical part of a domain name may be disregarded. The relevant comparison to be made is with the second-level portion of the Disputed Domain Name, specifically: “sgnyenta”.

It is also well established that 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. (see [WIPO Overview 3.0](#), section 1.9).

This Panel finds that the switching of the letters “g” and “y” in the Disputed Domain Name of the Complainant’s trademark SYNGENTA does not prevent a finding of confusing similarity. The Panel finds that the Complainant has established paragraph 4(a)(i) of the Policy.

## B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy lists the ways that the respondent may demonstrate rights or legitimate interests in the disputed domain name. The Policy also places the burden on the complainant to establish the absence of respondent’s rights or legitimate interest in the disputed domain name. Because of the inherent difficulties in proving a negative, the consensus view is that the complainant need only put forward a *prima facie* case that the respondent lacks rights or legitimate interests. The burden of production then shifts to the respondent to rebut that *prima facie* case (see [WIPO Overview 3.0](#), section 2.1).

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because the mark SYNGENTA is not a dictionary word but rather a highly distinctive and well-known name. The Complainant also has not licensed, permitted or authorized the Respondent to use the Complainant’s trademark. The Complainant submits that the Respondent “is not currently resolving to an active website, but it was used for phishing activities” and has supplied evidence of fraudulent correspondence that uses the Disputed Domain Name to seek to obtain a payment from a third party by deceptively pretending to be an actual employee of the Complainant.

On any objective view, the Respondent is not a reseller with a legitimate interest in a domain name incorporating a manufacturer’s mark. Nor, alternatively, is the Respondent commonly known by the Disputed Domain Name.

This Panel finds that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because it is engaging in an online phishing scam using email communications pretending to be from an employee of a corporate entity operating under the brand SYNGENTA to seek from the recipient of that communication private and sensitive commercial information with the purpose of misleading the recipient based on the wide recognition of the Complainant’s mark SYNGENTA. The Complainant further contends that the Respondent is also using the logo, and other contact details of the Complainant to reinforce the false impression that the fraudulent communications are legitimate. In this respect, the Panel notes that the Disputed Domain Name does not resolve to a website. Naturally too, in view of the Complainant’s allegations, the example of scam email provided in uncontested evidence does not accurately nor prominently disclose the unauthorized nature of the Respondent’s relationship with the Complainant. It could

therefore be inferred that the Respondent was opportunistically using the Complainant's mark in the furtherance of the perpetration of a fraud.

The Panel finds for the Complainant on the second element of the Policy.

### **C. Registered and Used in Bad Faith**

The third element of the Policy requires that the complainant must also demonstrate is that the disputed domain name has been registered and used in bad faith. Paragraph 4(b) of the Policy sets out certain circumstances to be construed as evidence of both of these conjunctive requirements.

The Panel finds that the evidence in the case shows the Respondent registered and has used the Disputed Domain Name in bad faith.

On the issue of registration, this Panel infers from the attempted phishing that the Respondent was well aware of the trademark SYNGENTA at the time of registration. The Panel finds that the most likely reason for the Respondent registering the Disputed Domain Name and then using it to send a fictitious email, is that the Respondent was attempting to perpetrate a fraud.

Further, a gap of several years between registration of the Complainant's trademark and the Respondent's registrations of the Disputed Domain Name (containing the trademark) can in certain circumstances be an indicator of bad faith. (See *Asian World of Martial Arts Inc. v. Texas International Property Associates*, WIPO Case No. [D2007-1415](#)). In this case, the Complainant's rights in its trademark predate any rights that could possibly flow from the Respondent's registration by 22 years.

On the issue of use, the Complainant's evidence is that the Disputed Domain Name does not currently resolve to an active website but rather that the Respondent attempted to deceive the recipient of the phishing email into believing it was a legitimate communication from a domain name associated with the Complainant's SYNGENTA brand. The obvious risk of deception or confusion as to the origin of such an email, or affiliation of the email communication with the Complainant is, in this Panel's view, the very essence of bad faith under paragraph 4(b)(iv) of the Policy.

In the absence of any evidence to the contrary, this Panel accepts the Complainant's evidence and finds that the Respondent has taken the Complainant's trademark SYNGENTA and incorporated it in the Disputed Domain Name without the Complainant's consent or authorization, for the very purpose of capitalizing on the reputation of the trademark by creating an email address comprised of the Disputed Domain Name which it has then used to pretend to be an employee of the Complainant, for the purpose of obtaining sensitive commercial information from a third party in an attempt to extract a mistaken payment, an activity sometimes referred to as "phishing". Numerous previous UDRP panels have held that the registration and the use of a disputed domain name in connection with a fraudulent "phishing" scheme constitutes bad faith under the Policy (see *L'Oréal, Biotherm, Lancôme Parfums et Beauté & Cie v. Unasi, Inc*, WIPO Case No. [D2005-0623](#); *Veuve Clicquot Ponsardin, Maison Fondée en 1772 v. The Polygenix Group Co.*, WIPO Case No. [D2000-0163](#); *Hoffmann-La Roche Inc. v. Samuel Teodorek*, WIPO Case No. [D2007-1814](#); *Pfizer Inc v. Michael Chucks / Whoisguard Protected, Whoisguard Inc.*, WIPO Case No. [D2014-0887](#); and *Accor v. SANGHO HEO / Contact Privacy Inc.*, WIPO Case No. [D2014-1471](#)).

Accordingly, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(iii) 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, <sgnyenta.com>, be transferred to the Complainant.

*/Nicholas Weston/*  
**Nicholas Weston**  
Sole Panelist  
Date: May 18, 2022