

ADMINISTRATIVE PANEL DECISION

Syngenta Participations AG v. jie wang
Case No. D2022-1069

1. The Parties

The Complainant is Syngenta Participations AG, Switzerland, internally-represented.

The Respondent is jie wang, China.

2. The Domain Name and Registrar

The disputed domain name <syngentacereals.com> is registered with Gname.com Pte. Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 29, 2022. On March 29, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 31, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on April 1, 2022 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 amendment to the Complaint on April 4, 2022.

The Center verified that the Complaint together with the amendment to 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 11, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 1, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 2, 2022.

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on May 9, 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 is in the business of agrochemicals for crop protection as well as vegetable and flower seeds.

In addition to that, the Complainant operates the official websites under the domain names such as <syngenta.com> and <syngenta.cn>, and is the owner, amongst others, of the following trademark registrations (Annexes 3a, 3b and 3c to the Complaint):

- International trademark registration No. 732663 for SYNGENTA, registered on March 8, 2000, successively renewed, in classes 1, 2, 5, 7, 8, 9, 10, 16, 29, 30, 31, 32, 35, 36, 41 and 42; and

- United States of America trademark registration No. 3,036,058 for SYNGENTA, registered on December 27, 2005, successively renewed, in classes 1, 2, 5, 7, 8, 9, 10, 16, 29, 30, 31, 32, 35, 36, 41 and 42.

The disputed domain name <syngentacereals.com> was registered on April 25, 2021 and presently does not resolve to an active webpage. It appears that at the time the complaint was filed the disputed domain name was used in connection with a webpage containing pay-per-click ("PPC") links to gambling pages (Annex 6 to the Complaint).

5. Parties' Contentions

A. Complainant

The Complainant asserts to be a science-based agricultural technology ("agtech") company with 28,000 employees in 90 countries, manufacturing products that include agrochemicals for crop protection as well as vegetable and flower seeds.

Under the Complainant's view, the disputed domain name is confusingly similar to its SYNGENTA trademark since said mark is entirely reproduced in the disputed domain name, not being the addition of the term "cereals" sufficient to add any distinctiveness thereto, rather being consumer confusion enhanced in view of the fact that "cereals" is cited in the Complainant's official websites and campaigns.

Moreover, the Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name given that:

(a) the Respondent has no affiliation with the Complainant nor is the Respondent authorized to use the Complainant's registered trademark; and

(b) the Respondent is making no legitimate use of the disputed domain name since there is no active use of the disputed domain name.

As to the registration of the disputed domain name in bad faith, the Complainant asserts that the Respondent registered the disputed domain name for commercial gain and to trade on the Complainant's goodwill and reputation, having sought to profit from PPC advertisements and now passively holding the disputed domain name.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy sets forth the following three requirements, which have to be met for this Panel to order the transfer of the disputed domain name to the Complainant:

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

The Complainant must prove in this administrative proceeding that each of the aforementioned three elements is present in order to obtain the transfer of the disputed domain name.

A. Identical or Confusingly Similar

The Complainant has established rights in the SYNGENTA trademark duly registered.

The Panel finds that the disputed domain name reproduces the Complainant's mark in its entirety. The addition of the term "cereals" does not prevent a finding of confusing similarity. It is well accepted that the first element functions primarily as a standing requirement and that the threshold test for confusing similarity involves a "reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name". See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.

Therefore, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark. The first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a non-exclusive list of circumstances that may indicate the Respondent's rights to or legitimate interests in the disputed domain name. These circumstances are:

- (i) before any notice of the dispute, the Respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the Respondent (as an individual, business, or other organization) has been commonly known by the disputed domain name, in spite of not having acquired trademark or service mark rights; or
- (iii) the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Respondent has failed to invoke any of the circumstances which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights to and/or legitimate interests in the disputed domain name. This entitles the Panel to draw any such inferences from such default as it considers appropriate pursuant to paragraph 14(b) of the Rules. Nevertheless, the burden is still on the Complainant to first make a *prima facie* case against the Respondent (being the overall burden of proof always with the Complainant, but once the 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).

In that sense, the Complainant indeed states that the Respondent has no affiliation with the Complainant nor is the Respondent authorized to use the Complainant's registered trademark.

Also, the absence of any indication that the Respondent has rights in a term corresponding to the disputed domain name, or any possible link between the Respondent and the disputed domain name that could be inferred from the details known of the Respondent or the webpage relating to the disputed domain name available at the disputed domain name, corroborate with the Panel's finding of the absence of rights or legitimate interests.

Therefore, the Panel finds that the Respondent lacks rights or legitimate interests in the disputed domain name. The second element of the Policy has also been met.

C. Registered and Used in Bad Faith

This case presents the following circumstances which indicate under the balance of probabilities bad faith registration and use of the disputed domain name:

- a) the Complainant's trademark is registered worldwide and is well known;
- b) the Respondent has provided no evidence whatsoever of any actual or contemplated good faith use by him of the disputed domain name; and
- c) the present inactive use of the disputed domain name and the past use in connection with a parked webpage displaying PPC links, indicates the Respondent's bad faith.

Further, previous UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. See [WIPO Overview 3.0](#), section 3.1.4.

For the reasons above, the Respondent's conduct has to be considered, in this Panel's view, as bad faith registration and use of the disputed domain name.

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 <syngentacereals.com> be transferred to the Complainant.

/Wilson Pinheiro Jabur/

Wilson Pinheiro Jabur

Sole Panelist

Date: May 23, 2022