

## **ADMINISTRATIVE PANEL DECISION**

Syngenta Participations AG v. Privacy Service Provided by Withheld for Privacy ehf / Nikolay Kovalev  
Case No. D2022-1337

### **1. The Parties**

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

The Respondent is Privacy Service Provided by Withheld for Privacy ehf, Iceland / Nikolay Kovalev, Russian Federation.

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

The disputed domain name <syngenta-invest.com> is registered with NameCheap, Inc. (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 13, 2022. On April 14, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 14, 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 May 3, 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 amended Complaint on May 6, 2022.

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 May 10, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 30, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 2, 2022.

The Center appointed Christiane Féral-Schuhl as the sole panelist in this matter on June 10, 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 a global, science-based agricultural-tech (“agtech”) company with 28,000 employees in 90 countries dedicated to the purpose of bringing plant potential to life. Its products include agrochemicals for crop protection as well as vegetable and flower seeds.

The Complainant is the proprietor of trademark registrations for the word mark SYNGENTA, including the following trademarks (hereafter the SYNGENTA Trademarks):

- the International trademark SYNGENTA No. 732663, registered on March 8, 2000, for products and services in classes 01, 02, 05, 07, 08, 09, 10, 16, 29, 30, 31, 32, 35, 36, 41, and 42, with designations in, United Kingdom, France, Iceland, Germany, China, the Russian Federation, and Viet Nam among others; and
- the United States trademark SYNGENTA No. 3036058, registered on December 27, 2005, for products and services in classes 01, 02, 05, 07, 08, 09, 10, 16, 29, 31, 32, 35, 36, 41, and 42.

The Complainant also indicates that it owns several domain names including: <syngenta.com>, <syngenta.cn>, <syngenta-online.com>, <syngentaonline.com>, <syngenta-us.com>, <syngenta.co>, <syngenta.co.uk>, <syngenta.fr>, <syngenta.de>, <syngenta.ru>, and <syngenta.vn>.

The disputed domain name <syngenta-invest.com> was registered on March 23, 2022.

The disputed domain name resolved to an agricultural themed website with investment offers.

At the time of the decision, the disputed domain name is inactive.

#### 5. Parties’ Contentions

##### A. Complainant

First, the Complainant claims that the disputed domain name is confusingly similar to the SYNGENTA Trademarks, given that it reproduces the SYNGENTA Trademarks in its entirety with the mere addition of the term “invest”, which do not detract from the confusing similarity between the disputed domain name and the Complainant’s trademarks (See *Coatue Management, L.L.C. v. Loyaltan Invest and Andrew Scott*, WIPO Case No. [D2017-0949](#); and *Costco Wholesale Membership Inc. and Costco Wholesale Corporation v. Domain Privacy Services*, WIPO Case No. [D2016-2624](#)).

Second, the Complainant claims that the Respondent has no rights or legitimate interests in respect of the disputed domain name since it is not affiliated with the Complainant, nor is it authorized to use the SYNGENTA Trademarks.

At last, the Complainant claims that the Respondent has registered and is using the disputed domain name in bad faith, considering that: (i) the disputed domain name resolved to a website with investment offers in agriculture, fraudulently implying a direct connection to or endorsement by the Complainant through the use of the SYNGENTA Trademarks in the disputed domain name as well as on the website, (ii) references to agricultural, pictures of farming, and images of grain add to the implication that this website is related to the Complainant, and clearly shows that the Respondent has actual knowledge of the Complainant and its

business, (iii) this website also use the United Kingdom (“UK”) Companies Number and address of the UK entity of the Complainant group, thus demonstrating that the Respondent was attempting to impersonate the Complainant, and (iv) in addition the Respondent one of the addresses indicated in the contact information of the disputed domain name was revealed to be the same as the street address for the official Complainant location in London, UK.

The Complainant believes that the disputed domain name is being used to fraudulently misrepresent an investment opportunity with Complainant and that the Respondent is attempting to trade off a well-known brand in order to divert Internet traffic for commercial gain and dupe the public into an investing scam.

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy provides that in order to be entitled to a transfer of the disputed domain name, the Complainant shall prove the following three elements:

- (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.

### **A. Identical or Confusingly Similar**

According to the Policy, paragraph 4(a)(i), the Complainant shall prove that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

First of all, the Panel finds that the Complainant has provided evidence that it has rights in the SYNGENTA Trademarks.

Then, the Panel wishes to remind that the first element of the UDRP serves essentially as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant’s trademark and the disputed domain name.

This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the domain name. In cases where a domain name consists of a common, obvious, or intentional misspelling of a trademark, the domain name will be considered by panels to be confusingly similar to the relevant mark for purposes of the UDRP (see section 1.9 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”)).

Regarding the disputed domain name <syngenta-invest.com>, the Panel finds that it is composed of;

- the SYNGENTA Trademark in its entirety;
- the word “invest”; and
- the generic Top-Level Domain (“gTLD”) “.com”, it being specified that the gTLD in a domain name is viewed as a standard registration requirement and as such is disregarded for the purpose of determining whether a domain name is identical or confusingly similar to a trademark.

According to prior UDRP panel decisions, it is sufficient that the disputed domain name incorporates the entirety of a trademark, in order to consider the domain name as confusingly similar to that mark for purposes of UDRP standing. The mere addition of a word to a mark does not prevent a finding of confusing similarity (see section 1.8 of the [WIPO Overview 3.0](#)).

The Panel considers that, in this case, the addition of the term “invest” to the SYNGENTA trademark included in the disputed domain name does not prevent a finding of confusing similarity.

Therefore, the Panel holds that the disputed domain name <syngenta-invest.com> is confusingly similar to the SYNGENTA Trademarks and that the Complainant has established the first element of paragraph 4(a) of the Policy.

## **B. Rights or Legitimate Interests**

According to the Policy, paragraph 4(a)(ii), the Complainants shall demonstrate that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Policy, paragraph 4(c), outlines circumstances that if found by the Panel to be proved shall demonstrate the Respondent’s rights or legitimate interests in the disputed domain name.

These circumstances are:

- before any notice of the dispute, the respondent’s use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- the respondent (as an individual, business, or other organization) has been commonly known by the domain name, even if the respondent has acquired no trademark or service mark rights; or
- the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

According to prior UDRP panel decisions, it is sufficient that a complainant shows *prima facie* that a respondent lacks rights or legitimate interests in a domain name in order to shift the burden of production to the respondent (see *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#)).

Indeed, while the overall burden of proof in a UDRP proceedings is on the complainant, previous UDRP panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often-impossible 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 *prima facie* that a 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element (see section 2.1 of the [WIPO Overview 3.0](#)).

According to the Panel, the Complainant has shown *prima facie* that the Respondent has no rights or legitimate interests in respect of the disputed domain name. Indeed, it appears that the Respondent has no affiliation with the Complainant and has not received any authorization to use the SYNGENTA Trademarks in any manner.

Moreover, the Panel finds that there is no evidence that the Respondent is commonly known by the disputed domain name or that the Respondent has the intent to use the disputed domain name in connection with a *bona fide* offering of goods and services. Indeed, the Complainant has provided evidence that the disputed domain name was used in order to unlawfully benefit from the SYNGENTA Trademarks’ reputation. In any case, the Respondent did not reply to the Complainant’s contentions.

Therefore, according to the Policy, paragraph 4(a)(ii) and 4(c), the Panel considers that the Respondent does not have rights or legitimate interests in the disputed domain name <syngenta-invest.com>.

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

According to the Policy, paragraph 4(a)(iii), the Complainant shall prove that the disputed domain name has been registered and is being used in bad faith.

Thus, paragraph 4(b) provides that any one of the following non-exclusive scenarios constitutes evidence of a respondent's bad faith:

(i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or

(ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or

(iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location.

First, the Panel considers that it is established that the Complainant's SYNGENTA Trademarks were registered before the registration of the disputed domain name so that there is a presumption of bad faith registration of the disputed domain name, given the fact that the disputed domain name wholly reproduces the SYNGENTA Trademark. In addition, the Panel considers that the Respondent clearly had knowledge of the Complainant's prior trademarks at the time of registration of the disputed domain name, as the website accessible from the disputed domain name reproduced the UK Companies Number and address of the UK entity of the Complainant's group and indicated an address in the contact information of the disputed domain name which was the same of the Complainant location in London. As a result, there is no doubt that at the time of registration of the disputed domain name, the Respondent was aware of the Complainant's trademarks and registered the disputed domain name in bad faith.

Furthermore, the Panel finds that the Complainant produced evidence that the disputed domain name resolved to an agricultural themed website with investment offers, in the same field of activity of the Complainant. This use of the disputed domain name constitutes an intentional attempt of the Respondent to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's SYNGENTA Trademarks as to the source, sponsorship, affiliation, or endorsement of the Respondent's website, which is a scenario constituting evidence of the Respondent's bad faith in using the disputed domain name as described under paragraph 4(b)(iv) of the Policy.

Moreover, the Panel finds that, at the date of the decision, the disputed domain name is inactive and reminds that such "passive holding" does not prevent a finding of bad faith, since according to prior UDRP panel decisions the panel must examine all the circumstances of the case to determine whether the respondent is acting in bad faith (see section 3.3 of the [WIPO Overview 3.0](#) and *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

In this case, the Panel believes that the passive holding of the disputed domain name proves that the Respondent acts in bad faith, given the particular circumstances listed below:

- the Complainant has provided evidence that the Complainant's Trademarks are widely protected in many countries,
- the Respondent has not provided any answer to the Complainant's contentions,
- the Respondent has given false contact details to users by reproducing the Complainant's address.

Considering all of the above, it is not possible to conceive of any plausible actual or contemplated good faith registration and use of the disputed domain name by the Respondent.

Therefore, in view of all the circumstances of this case, the Panel holds that the Respondent has registered and is using the disputed domain name in bad faith according to the Policy, paragraph 4(a)(iii) and 4(b).

## **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 <syngenta-invest.com> be transferred to the Complainant.

*/Christiane Féral-Schuhl/*

**Christiane Féral-Schuhl**

Sole Panelist

Date: June 23, 2022