

## **ADMINISTRATIVE PANEL DECISION**

Syngenta Participations AG v. 杨智超 (Yang Zhi Chao)  
Case No. D2022-2051

### **1. The Parties**

Complainant is Syngenta Participations AG, Switzerland, internally represented.

Respondent is 杨智超 (Yang Zhi Chao), China.

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

The disputed domain name <syngentacropprotectio.com> (the “Domain Name”) is registered with eName Technology Co., Ltd. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 7, 2022. On June 7, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On June 8, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to Complainant on June 9, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on June 10, 2022.

On June 9, 2022, the Center sent an email in English and Chinese to the Parties regarding the language of the proceeding. Complainant requested that English be the language of the proceeding on June 13, 2022. Respondent did not comment on the language of the proceeding.

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 June 17, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 7, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on July 11, 2022.

The Center appointed Kimberley Chen Nobles as the sole panelist in this matter on July 18, 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**

Complainant is an agriculture technology company with 49,000 employees in 90 countries focused on plant research, improvement, and utilization. Their products include agrochemicals for crop protection as well as vegetable and flower seeds.

Complainant owns numerous registered trademarks for SYGENTA in countries worldwide, including:

- International Trademark Registration No. 732663 for SYGENTA registered on March 8, 2000, with designations in the United Kingdom, France, Germany, China, the Russian Federation, Vietnam, etc.; and
- United States Registration No. 3036058 for SYGENTA registered on December 27, 2005.

Complainant is also the owner of the domain name <syngentacropprotection.com>, registered on July 18, 2000, which resolves to Complainant's official website "www.syngenta-us.com". Complainant owns and operates numerous other domain names including: <syngenta.com>, <syngenta-us.com>, <syngentagroup.com>, <syngenta.co.uk>, <syngenta-uk.group>, <syngenta.org>, <syngenta.co>, <syngenta.cn>, <syngenta.fr>, <syngenta.de>, <syngenta.ru>, and <syngenta.vn>.

The Domain Name was registered on May 3, 2022. At the time of the filing the Complaint, the Domain Name resolved to a pay-per-click site containing links with agriculture related themes, such as "Department of Agriculture", "Agriculture Definition" and "Sustainable Agriculture".

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

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

Complainant contends that (i) the Domain Name is identical or confusingly similar to Complainant's trademarks; (ii) Respondent has no rights or legitimate interests in the Domain Name; and (iii) Respondent registered and is using the Domain Name in bad faith.

In particular, Complainant contends that it has trademark registrations for SYGENTA and that Respondent registered and is using the Domain Name with the intention to confuse Internet users looking for *bona fide* and well-known SYGENTA products and services.

Complainant notes that it has no affiliation with Respondent, nor authorized Respondent to register or use a domain name, which includes Complainant's trademarks, and that Respondent has no rights or legitimate interests in the registration and use of the Domain Name. Rather, Complainant contends that Respondent has acted in bad faith in acquiring and setting up the Domain Name, when Respondent clearly knew of Complainant's rights.

## **B. Respondent**

Respondent did not reply to Complainant's contentions.

## **6. Discussion and Findings**

### **6.1. Preliminary Procedural Issue – Language of the Proceeding**

The Rules, in paragraph 11(a), provide that unless otherwise agreed by the parties or specified otherwise in the registration agreement between the respondent and the registrar in relation to the disputed domain name, the language of the proceeding shall be the language of the registration agreement, subject to the authority of the panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

Complainant submitted its Complaint in English. In its Complaint, email dated June 13, 2022 and amended Complainant, Complainant requested that the language of the proceeding be English. According to the information received from the Registrar, the language of the Registration Agreement for the Domain Name is Chinese.

Complainant contends that: the Domain Name is registered in Latin characters and wholly incorporates the terms "sygenta" which is identical to Complainant's SYGENTA trademark, while the term "cropprotectio" in the Domain name is a misspelling of "crop protection" – also English words. Complainant further states that Respondent has been involved in several other UDRP cases which were conducted in English. Complainant thus contends that for the above reasons, Respondent understands English.

In exercising its discretion to use a language other than that of the Registration Agreements for the Domain Name, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both Parties, taking into account all relevant circumstances of the case, including matters such as the Parties' ability to understand and use the proposed language, time, and costs.

The Panel accepts Complainant's submissions regarding the language of the proceeding. The Panel notes that the Center notified the Parties in Chinese and English of the language of the proceeding as well as notified the Parties in Chinese and English of the Complaint. Respondent chose not to comment on the language of the proceeding nor did Respondent choose to file a Response.

The Panel is also mindful of the need to ensure that the proceeding is conducted in a timely and cost-effective manner. Complainant may be unduly disadvantaged by having to translate the Complaint into Chinese and to conduct the proceeding in Chinese.

Having considered all the circumstances of this case, the Panel determines that English be the language of the proceeding.

### **6.2. Substantive Issues**

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

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

Section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition

(“[WIPO Overview 3.0](#)”) states that failure to respond to the complainant’s contentions would not by itself mean that the complainant is deemed to have prevailed; a respondent’s default is not necessarily an admission that the complainant’s claims are true.

Thus, although in this case Respondent has failed to respond to the Complaint, the burden remains with Complainant to establish the three elements of paragraph 4(a) of the Policy by a preponderance of the evidence. See, e.g., *The Knot, Inc. v. In Knot We Trust LTD*, WIPO Case No. [D2006-0340](#).

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

Ownership of a trademark registration is generally sufficient evidence that a complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. See [WIPO Overview 3.0](#), section 1.2.1. Complainant provided evidence of its rights in the SYGENTA trademarks, as noted above. Complainant has also submitted evidence, which supports that the SYGENTA trademarks are widely known and a distinctive identifier of Complainant’s products and services. Complainant has therefore proven that it has the requisite rights in the SYGENTA trademarks.

With Complainant’s rights in the SYGENTA trademark established, the remaining question under the first element of the Policy is whether the Domain Name, typically disregarding the Top-Level Domain (“TLD”) in which it is registered (in this case, “.com”), is identical or confusingly similar to Complainant’s trademark. See, e.g., *B & H Foto & Electronics Corp. v. Domains by Proxy, Inc. / Joseph Gross*, WIPO Case No. [D2010-0842](#).

Here, the Domain Name is confusingly similar to Complainant’s SYGENTA trademarks. These trademarks, which are fanciful and inherently distinctive, are recognizable in the Domain Name. In particular, the Domain Name includes Complainant’s trademark SYGENTA in its entirety, followed by the terms “cropprotectio” which appear to be a misspelling of the terms “crop protection”. The addition of the term “cropprotectio” after the SYGENTA trademark in the Domain Name does not prevent a finding of confusing similarity between the Domain Name and the SYGENTA trademarks. See [WIPO Overview 3.0](#), section 1.8.

Thus, the Panel finds that Complainant has satisfied the first element of the Policy.

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

Under paragraph 4(a)(ii) of the Policy, a complainant must make a *prima facie* showing that a respondent possesses no rights or legitimate interests in a disputed domain name. See, e.g., *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#). Once a complainant makes such a *prima facie* showing, the burden of production shifts to the respondent, though the burden of proof always remains on the complainant. If the respondent fails to come forward with relevant evidence showing rights or legitimate interests, the complainant will have sustained its burden under the second element of the UDRP.

From the record in this case, it is evident that Respondent was, and is, aware of Complainant and its SYGENTA trademarks, and does not have any rights or legitimate interests in the Domain Name. Complainant has confirmed that Respondent is not affiliated with Complainant, or otherwise authorized or licensed to use the SYGENTA trademarks or to seek registration of any domain name incorporating the trademarks. Respondent is also not known to be associated with the SYGENTA trademarks and there is no evidence showing that Respondent has been commonly known by the Domain Name.

In addition, Respondent has not used the Domain Name in connection with a *bona fide* offering of goods or services or a legitimate noncommercial or fair use. Rather, Complainant asserts that the Domain Name previously redirect to a website with competing, agricultural related links, which has not been rebutted by Respondent. Such use does not constitute a *bona fide* offering of goods or services or a legitimate noncommercial or fair use and cannot under the circumstances confer on Respondent any rights or legitimate interests in the Domain Name. See, e.g., *Intesa Sanpaolo S.p.A. v. Charles Duke / Oneandone Private Registration*, WIPO Case No. [D2013-0875](#).

Further, the nature of the Domain Name carries a risk of implied affiliation with Complainant (see [WIPO Overview 3.0](#), section 2.5.1).

Accordingly, Complainant has provided evidence supporting its *prima facie* claim that Respondent lacks any rights or legitimate interests in the Domain Name. Respondent has failed to produce countervailing evidence of any rights or legitimate interests in the Domain Name. Thus, the Panel concludes that Respondent does not have any rights or legitimate interests in the Domain Name and Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

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

The Panel finds that Respondent's actions indicate that Respondent registered and is using the Domain Name in bad faith.

Paragraph 4(b) of the Policy provides a non-exhaustive list of circumstances indicating bad faith registration and use on the part of a domain name registrant, namely:

“(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration 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 your documented out-of-pocket costs directly related to the domain name; or

(ii) you have 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 you have engaged in a pattern of such conduct; or

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

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your 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 your website or location or of a product or service on your website or location.”

The Panel finds that Complainant provided ample evidence to show that registration and use of the SYGENTA trademarks long predate the registration of the Domain Name. Complainant is also well established and known. Indeed, the record shows that Complainant's SYGENTA trademarks and related products and services are widely known and recognized. Therefore, Respondent was likely aware of the SYGENTA trademarks when it registered the Domain Name, or knew or should have known that the Domain Name was confusingly similar to Complainant's trademarks. See [WIPO Overview 3.0](#), section 3.2.2; see also *TTT Moneycorp Limited v. Privacy Gods / Privacy Gods Limited*, WIPO Case No. [D2016-1973](#).

The Panel therefore finds that Respondent's awareness of Complainant's trademark rights at the time of registration suggests bad faith. See *Red Bull GmbH v. Credit du Léman SA, Jean-Denis Deletraz*, WIPO Case No. [D2011-2209](#); *Nintendo of America Inc v. Marco Beijen, Beijen Consulting, Pokemon Fan Clubs Org., and Pokemon Fans Unite*, WIPO Case No. [D2001-1070](#); *BellSouth Intellectual Property Corporation v. Serena, Axel*, WIPO Case No. [D2006-0007](#).

Further, the registration of the Domain Name incorporating Complainant's SYGENTA trademark in its entirety suggests Respondent's actual knowledge of Complainant's rights in the SYGENTA trademarks at the time of registration of the Domain Name and its effort to opportunistically capitalize on the registration and use of the Domain Name. In addition, while the Domain Name includes Complainant's trademark SYGENTA in its entirety, it is followed by the terms “cropprotectio” (an apparent misspelling of the words “crop protection”) which is nearly identical to Complainant's domain name <syngentacropprotection.com>,

directly associated with Complainant's SYGENTA trademarks and business activities, and directly evokes Complainant's activities in the field of agriculture, further indicating Respondent's actual knowledge of Complainant and its trademarks, and that Respondent's registration of the Domain Name is in bad faith.

Moreover, Respondent registered and is using the Domain Name to confuse and mislead consumers looking for *bona fide* and well-known SYGENTA products and services of Complainant or authorized partners of Complainant. The use of the SYGENTA mark as the dominant part of the Domain Name is intended to capture Internet traffic from Internet users who are looking for Complainant's products and services. Such use and association of the Domain Name to divert users to a webpage featuring agriculture-themed links, such as "Department of Agriculture", "Agriculture Definition" and "Sustainable Agriculture" could result in causing confusion with Complainant's business activities. It may confuse Internet users who are looking for Complainant's legitimate website and deceive Internet users into thinking that Respondent is somehow connected to Complainant, which is not the case.

Moreover, the Panel also notes the distinctiveness and reputation of the SYGENTA trademarks, the failure of Respondent to submit a response or to provide any evidence of actual or contemplated good faith use, and the implausibility of any good faith use to which the Domain Name may be put.

Accordingly, the Panel finds that Respondent has registered and is using the Domain Name in bad faith and Complainant succeeds under the third element of paragraph 4(a) 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 Domain Name <syngentacropprotectio.com> be transferred to Complainant.

*/Kimberley Chen Nobles/*

**Kimberley Chen Nobles**

Sole Panelist

Date: August 1, 2022