

ADMINISTRATIVE PANEL DECISION

Syngenta Participations AG v. Privacy service provided by Withheld for Privacy ehf / Technox Coin
Case No. D2022-3157

1. The Parties

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

The respondent is Privacy service provided by Withheld for Privacy ehf, Iceland / Technox Coin, Republic of Moldova.

2. The Domain Name and Registrar

The disputed domain name <syngenta.tech> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

On August 26, 2022, the Complainant filed its complaint in English (the “Complaint”) with the WIPO Arbitration and Mediation Center (the “Center”) regarding the disputed domain names <projectsygenta.tech> and <sygenta.tech> (the “initial disputed domain names”). On August 26, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the initial disputed domain names. On August 26, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the initial disputed domain names, which differed from the named Respondent and contact information in the Complaint. On August 30, 2022, the Center sent an email communication to the Complainant providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. On August 30, 2022, the Complainant filed an amendment to the Complaint (the “Amendment to the Complaint”) withdrawing <projectsygenta.tech> from the original Complaint and proceeding forward only with <sygenta.tech> (the “Domain Name”).

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”).

On September 5, 2022, in accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced. In accordance with the Rules, paragraph 5, the due date for Response was September 25, 2022. The Respondent did not submit any response. Accordingly, on September 26, 2022, the Center notified the Respondent's default.

On September 30, 2022, the Center appointed Haig Oghigian as the sole panelist in this matter. 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.

All communications between the Center and the Parties have been in English which has been confirmed by the Registrar as the language of the Registration Agreement for the Domain Name.

4. Factual Background

The Complainant is a global, science-based agtech company.

In 1999, the Complainant registered the trademark SYNGENTA worldwide. The numerous trademark registrations include International Trademark No. 732663 for SYNGENTA in classes 1, 2, 5, 7, 8, 9, 10, 16, 29, 30, 31, 32, 35, 36, 41, and 42, as of March 8, 2000 with designations in China, Germany, the Russian Federation, the United Kingdom, and Viet Nam, among other countries (the "Trademark"). The Complainant also has registered SYNGENTA in numerous countries as national marks such as the United States of America trademark Reg. No. 3036058. The Complainant is also the owner of several domain names incorporating the Trademark, including <syngenta.com>, <syngenta.biz>, <syngenta.org>, <syngenta.co.uk>, <syngenta.co>, <syngenta.cn>, <syngenta-us.com>, <syngenta.fr>, <syngenta.de>, <syngenta.ru>, and <syngenta.vn>.

The Domain Name was registered on July 1, 2022, and resolves to a website displaying a "COMING SOON" message.

On July 6, 2022, the Complainant sent a cease-and-desist notification to the Respondent. The Respondent did not reply.

On August 26, 2022, in correspondence with the Center, the Registrar confirmed the Domain Name is registered with NameCheap, Inc., and Technox Coin is the registrant of the Domain Name.

According to the Whois record found through the Registrar, the Respondent is located in the Republic of Moldova.

5. Parties' Contentions

A. Complainant

The following information has been taken from the Complaint, Amendment to the Complaint and the attached Annexes.

The Complainant submits that this dispute is properly within the scope of the Policy and that this Panel has the jurisdiction to decide the dispute because the Registration Agreement for the Domain Name that is the subject of the Complaint incorporates the Policy.

The Complainant has 28,800 employees in 90 countries dedicated to the purpose of bringing plant potential to life. The Complainant's products include agrochemicals for crop protection as well as vegetal and flower seeds (see "www.syngenta.com").

The Complainant alleges that the Domain Name is confusingly similar to its Trademark SYNGENTA because it contains the Trademark in whole, which may lead the public to believe that the website is an official website of the Complainant, or that it is endorsed by the Complainant. The Complainant's evidence demonstrates that the Domain Name is resolving to a website with a "COMING SOON" message. The Complainant submits that the Respondent is trading on its reputation and the likelihood of confusion to drive traffic to the inoperative site.

The Complainant submits that the Domain Name is identical to the Trademark in which it has rights, the Respondent has no rights or legitimate interests in respect of the Domain Name, and the registration and use of the Domain Name have been done in bad faith. The Complainant requests that the Domain Name be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Domain Name fully incorporates the Trademark in its entirety without any additions or amendments. It is now trite law that a domain name that wholly incorporates a registered trademark is enough to conclude that there is a confusing similarity.

The Panel agrees with the Complainant that the Domain Name is identical to the Trademark. The Panel is also of the view that the Complainant has demonstrated to the Panel's satisfaction that it has the rights to the Trademark as per the registration of the Trademark and also of its commercial use.

In light of the above, it is apparent that the Domain Name is identical to the prior registered trademark in which the Complainant has rights pursuant to paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

In accordance with paragraph 4(c) of the Policy, the Respondent, in order to demonstrate its rights or legitimate interests can, without limitation, refer to the following circumstances:

- (i) before any notice to you of the dispute, your 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
- (ii) you (as an individual, business, or other organization) have been commonly known by the Domain Name, even if you have acquired no trademark or service mark rights; or
- (iii) you are 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.

No evidence was adduced by the Respondent to demonstrate any rights or legitimate interests in the Domain Name. The Respondent, having been duly notified of the Complaint and the present proceeding, has chosen not to reply to the contentions of the Complainant, nor otherwise participated in this proceeding.

The Complainant registered the Trademark in 2000. The Respondent registered the Domain Name in 2022. The Respondent has no affiliation with the Complainant. The Domain Name is resolving to a website with a "COMING SOON" message.

No evidence was adduced that would demonstrate that the Respondent has used any trademarks similar to the one used in the Domain Name nor that the Respondent has been authorized to register any domain name including the Trademark. Nevertheless, the Respondent registered the Domain Name, which is identical to the Trademark. Such construction carries a high risk of implied affiliation that cannot constitute fair use, pursuant to section 2.5.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)).

There is no evidence that would show that the Respondent was acting in accordance of any rights or legitimate interests upon registration of the Domain Name.

There is also no evidence that would show that the Respondent had “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”, as per paragraph 4(c)(i) of the Policy referred above.

Therefore, the Panel concludes that the Respondent has neither rights nor legitimate interests in the Domain Name.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that if the following circumstances in particular but without limitation, are present, they shall be evidence of the registration and use of a domain name in bad faith:

- (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 web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location.

Bad faith has been found in many cases of domain name registrations that resolve to “coming soon” pages, including *Bayerische Motoren Werke AG (BMW) v. Registration Private, Domains by Proxy, LLC / Jake Neels, Automotive Dealer Solutions*, WIPO Case No. [D2018-1701](#); and *Yamaha Corporation v. DropCatch.com, TurnCommerc Inc. / vinicius barbosa dos santos*, WIPO Case No. [D2021-4112](#). In both cases, the panels considered a “coming soon” page as a non-use of the disputed domain name, and therefore reviewed the case in the context of the principles of “passive holding”.

Passive holding as an element of bad faith was found according to the principles established at *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

Therefore, the Panel also finds that the registration and use of the Domain Name for a “coming soon” website constitute bad faith considering the circumstances of this case.

Moreover, a cease-and-desist notification was sent to the Respondent, which the Respondent did not reply to. A non-response can be considered an element of bad faith (see *Societe des Produits Nestle SA v. Deleting domain, Umbeke Membe*, WIPO Case No. [D2008-0738](#); and *The Great Eastern Life Assurance Company Limited v. Unasi Inc.*, WIPO Case No. [D2005-1218](#)).

A simple trademark search or a web browser search for the term “syngenta” would have revealed the Complainant’s rights in the SYNGENTA Trademark. The Complainant has registered its Trademark since 2000, which is more than 20 years before the Respondent registered the Domain Name. The Panel sees no reason for the Respondent to have registered the Domain Name, which is identical to the Trademark, and the Panel also finds that there is no plausibility of any good faith use to which the Domain Name may be put. This also supports a finding of bad faith.

For the reasons above, the Panel finds that the registration and use of the Domain Name have been done 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 Domain Name <syngenta.tech> be transferred to the Complainant.

/Haig Oghigian/

Haig Oghigian

Sole Panelist

Date: October 14, 2022