

## **ADMINISTRATIVE PANEL DECISION**

Syngenta Participations AG v. mike Gideon, Syngenta  
Case No. D2022-3569

### **1. The Parties**

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

The Respondent is mike Gideon, Syngenta, United States of America.

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

The disputed domain name <careers-syngenta.com> is registered with Realtime Register B.V. (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 27, 2022. On September 27, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 28, 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 October 6, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 26, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 27, 2022.

The Center appointed Tuukka Airaksinen as the sole panelist in this matter on November 2, 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, agro-technology company with 30,000 employees in 90 countries. The Complainant's products include agrochemicals for crop protection as well as vegetable and flower seeds. The Complainant's trademark has been registered since 1999 in various countries, including in the United States under No 3036058 as of December 27, 2005.

The disputed domain name was registered on August 17, 2022 and does not resolve to an active website.

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

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

The disputed domain name is confusingly similar with the Complainant's trademark as it includes the Complainant's trademark in its entirety. The addition of the descriptive prefix "careers" is clearly meant to confuse the public into thinking that the disputed domain name is owned and operated by Syngenta. This addition does not eliminate the risk of confusion.

The Respondent has no affiliation with the Complainant nor is the Respondent authorized to use the Complainant's trademark.

The use of "careers" is a clear reference to employment making it difficult to believe that the disputed domain name would not be used for malicious activity associated with job opportunities. The disputed domain name is not resolving but is still causing damage to the Complainant's business because the public could reasonably assume that the disputed domain name is an official domain name of the Complainant, resolving to a defunct website. Passive holding can be considered evidence of bad faith even without any active attempt from the Respondent to sell the disputed domain name or to contact the trademark holder.

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

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

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

In order to obtain the transfer of a domain name, a complainant must prove the three elements of paragraph 4(a) of the Policy, regardless of whether the respondent files a response to the complaint or not. The first element is that the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights. The second element a complainant must prove is that the respondent has no rights or legitimate interests in respect of the domain name. The third element a complainant must establish is that the domain name has been registered and is being used in bad faith.

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

Paragraph 4(a)(i) of the Policy requires that the Complainant establish that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights. Consequently, the Complainant must prove that it has rights to a trademark, and that the disputed domain name is identical or confusingly similar to this trademark.

According to section 1.11 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), "[t]he applicable Top Level Domain ('TLD') in a domain name (e.g., '.com', '.club', '.nyc') is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test".

Furthermore, “where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The nature of such additional term(s) may however bear on assessment of the second and third elements”. See section 1.8 of the [WIPO Overview 3.0](#).

The disputed domain name is confusingly similar to the Complainant’s trademark as it includes the Complainant’s trademark entirely combined with the term “careers”. This does not prevent confusing similarity between the Complainant’s trademark and the disputed domain name.

This means that the disputed domain name is confusingly similar with the Complainant’s trademark, and hence the first element of the Policy has been fulfilled.

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

Paragraph 4(a)(ii) of the Policy requires that the Complainant establish that the Respondent has no rights or legitimate interests in the disputed domain name.

It is widely accepted among UDRP panels that once a complainant has made a *prima facie* showing indicating the absence of the respondent’s rights or legitimate interests in a disputed domain name the burden of production shifts to the respondent to come forward with evidence of such rights or legitimate interests. If the respondent fails to do so, the complainant is deemed to have satisfied the second element of the Policy. See, e.g., *Document Technologies, Inc. v. International Electronic Communications Inc.*, WIPO Case No. [D2000-0270](#), and section 2.1 of the [WIPO Overview 3.0](#).

The Complainant has credibly submitted that the Respondent is neither affiliated with the Complainant in any way nor has it been authorized by the Complainant to use and register the disputed domain name, that the Respondent has no rights or legitimate interests in the disputed domain name, and that the Respondent has not made and is not making a legitimate noncommercial or fair use of the disputed domain name and is not commonly known by the disputed domain name in accordance with paragraph 4(c)(ii) of the Policy.

Moreover, the Panel finds that the nature of the disputed domain name carries a risk of implied affiliation with the Complainant’s trademark. See section 2.5.1 of the [WIPO Overview 3.0](#).

Accordingly, the Panel finds that the Complainant has made a *prima facie* case that has not been rebutted by the Respondent. Considering the Panel’s findings below, the Panel finds that there are no other circumstances that provide the Respondent with any rights or legitimate interests in the disputed domain name. Therefore, the Panel finds that the second element of the Policy is fulfilled.

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

Paragraph 4(a)(iii) of the Policy requires that the Complainant establish that the disputed domain name has been registered and is being used in bad faith. Paragraph 4(b) of the Policy provides that the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

“(i) circumstances indicating that [the respondent has] registered or has 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 [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 or competitor; or

(iv) by using the domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent's] 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."

The Panel agrees that the Complainant's trademark is a widely known trademark in the field of agricultural fertilizers and crop protecting products. Hence the Respondent must have been aware of the Complainant and its trademark when registering the disputed domain name. See section 3.1.4 of the [WIPO Overview 3.0](#).

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

The disputed domain name resolves to an error page. Accordingly, the disputed domain name is not in active use, see e.g., *Accenture Global Services Limited v. Domain eRegistration*, WIPO Case No. [D2018-1994](#).

This, however, does not prevent a finding of bad faith under the doctrine of passive holding. See section 3.3 of [WIPO Overview 3.0](#).

Considering that the Panel has found that the Complainant's trademark is widely known, that the disputed domain name is confusingly similar to it, the Respondent has not responded to the Complaint, the Respondent has used a privacy protection service to conceal its identity, there are no obvious good faith or legitimate uses to which the disputed domain name may be put, the Panel considers, on balance, that the disputed domain name has been registered and is being used in bad faith.

Therefore, the Panel finds that the third element of the Policy is fulfilled.

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

*/Tuukka Airaksinen/*

**Tuukka Airaksinen**

Sole Panelist

Date: November 16, 2022