

ADMINISTRATIVE PANEL DECISION

Bunge SA v. Maruis Jane, Onyekachi Amogu
Case No. D2024-0273

1. The Parties

The Complainant is Bunge SA, Switzerland, represented by Brand Enforcement Team 101 Domain, United States of America (“USA”).

The Respondent is Maruis Jane, United States of America (“USA”), and Onyekachi Amogu, Nigeria.

2. The Domain Names and Registrars

The disputed domain name, <bunge-investments.com> is registered with Web4Africa Inc. and the disputed domain name, <bunge-investments.org>, is registered with Hostinger Operations, UAB (Collectively the “Registrars”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 23, 2024. On January 23, 2024, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On January 30, 2024, the Center sent a reminder to the Registrar, Web4Africa Inc. The Complainant sent email communications to the Center on February 2 and 19, 2024. On January 25 and February 21, 2024, the Registrars transmitted by email to the Center its verification disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Redacted for Privacy, Privacy Protect LLC (PrivacyProtect.org)) and contact information in the Complaint.

The Center sent an email communication to the Complainant on February 21, 2024, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar(s), requesting the Complainant to either file separate complaint(s) for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. The Complainant filed an amendment to the Complaint and an amended Complaint on February 24, 2024.

The Center verified that the Complaint together with the amendment to the Complaint and 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 February 27, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 18, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 19, 2024.

The Center appointed Andrew Brown K.C. as the sole panelist in this matter on April 2, 2024. 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 Bunge SA, a public corporation located in Geneva, Switzerland. The Complainant’s parent company was formerly Bunge Limited. A transaction at the commencement of 2024 resulted in another Swiss corporation, Bunge Global SA becoming owner of the Complainant and of Bunge Limited. The Complaint refers to all three companies “either individually or jointly as the Complainant”.

The Complainant was founded in 1818. It provides agricultural products, including grains and fertilizers to stabilize crop infrastructure, all with the ultimate purpose of sustaining fuel renewal energy solutions. The Complainant’s parent company operates approximately 300 facilities in more than 40 countries with over 20,000 employees.

The Complainant Bunge SA is the entity which holds the Bunge trademarks (the BUNGE Mark). The most relevant trademarks owned by the Complainant and on which the Complaint is based are:

Country	No.	Mark	Class	Registration Date
USA	2036787	BUNGE	29	February 11, 1997
USA	2682681	BUNGE LOGO	35, 36, 39, 40, and 42	February 4, 2003
European Union (“EU”)	002906832	BUNGE	1, 4, 5, 29, 30, 31, 32, 35, 36, 39, 40	November 11, 2005

The Complainant owns over 100 domain names consisting of country code Top-Level Domain (“TLD”) and generic TLD variations of the term “Bunge” including <bunge.com>, <bunge-global.com>, <bunge-group.com> and <bunge-sas.org>

The first disputed domain name <bunge-investments.org> was registered on September 2, 2023.

The second disputed domain name <bunge-investments.com> was registered on October 2, 2023.

The registrant for the first disputed domain name is Maruis Jane, USA.

The registrant for the second disputed domain name Onyekachi Amogu, Nigeria.

The disputed domain names used to resolve to websites mimicking the Complainant’s official website <bunge.com>.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

Notably, the Complainant contends that the two disputed domain names are confusingly similar to the BUNGE Mark in which it claims rights.

The Complainant contends that the history of registration of the two disputed domain names shows that the Respondent is in fact the same person as explained shortly.

The Complainant states that the Respondent has no rights or legitimate interests in respect of the disputed domain names. In particular it states that:

- (a) it has not licensed nor allowed the Respondent to use the BUNGE Mark for any purpose.
- (b) the Respondent has no registered trademarks using the term "Bunge" and has no legitimate connection to the BUNGE Mark.
- (c) the Respondent is not commonly known by the disputed domain names and is not making a legitimate noncommercial or fair use of the disputed domain names.

Finally, the Complainant states that the disputed domain names were registered by the Respondent to confuse customers (who associate the BUNGE Mark with the Complainant). By replicating the Complainant's legitimate website <bunge.com> to scam potential investors and customers. When the Registrar (following a complaint to it by the Complainant) suspended the first disputed domain name, the Respondent registered the second disputed domain name. For this purpose, the Respondent produced and completed and likely fraudulent Whois information to avoid detection. The two disputed domain names were displaying the same infringing site with the same Registrar contact email and phone number.

The Complainant states that the disputed domain names are being used in bad faith. It asserts that the registrations prevent it from reflecting its BUNGE Mark in corresponding domain names and misuse the disputed domain names for the purpose of disrupting the Complainant's business.

The Complainant says that the Respondent knew or should have known of the Complainant's active brand and established reputation when registering the disputed domain names.

B. Respondent

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

6. Discussion and Findings

Consolidation: Multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the disputed domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain names registrants did not comment on the Complainant's request.

Paragraph(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel has considered whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

As regards common control, the Panel notes that the two disputed domain names displayed the same website with the same contact and email and telephone number. Both used the same "bunge-investments" combination, and they were both registered using the same email address. The Panel is satisfied that when one disputed domain name was suspended by the Registrar, the Respondent registered the second.

In these circumstances the Panel is satisfied that there is cogent evidence that the two disputed domain names are subject to common control.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as "the Respondent") in a single proceeding.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily 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. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The USA and EU Trademark Registers show that the BUNGE trademarks identified by the Complaint are all held by the Complainant, Bunge SA. It is clear that other parties which the Complainant wishes included in the definition of "Complainant" i.e. the former parent, Bunge Limited, and the current parent, Bunge Global SA, also have rights in the unregistered trademark BUNGE and in the <bunge> domain names relied on.

The [WIPO Overview 3.0](#), para 1.4.2 states that:

"Where multiple related parties have rights in the relevant mark on which a UDRP complaint is based, the UDRP complaint maybe brought by any one party, on behalf of the other interested party; in such case, the Complainant(s) may wish to specify to which of such named interested parties any transfer decision should be directed."

The Panel adopts this approach but identifies that for the purposes of the outcome of this Complaint (as explained below) the party to which the transfer decision should be directed is the named Complainant Bunge SA.

The entirety of the Complainant's BUNGE Mark is reproduced within both disputed domain names. The addition of the term "investments" and the hyphen does not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8. Accordingly, the Panel finds that the disputed domain names are confusingly similar to the Bunge Mark for the purposes of the Policy ([WIPO Overview 3.0](#), section 1.7).

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult 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 a prima facie case that the 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 (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise.

Furthermore, the Panel notes the composition of the disputed domain names, wholly incorporating the Complainant’s trademark with the term “investments”, carries a risk of implied affiliation. [WIPO Overview 3.0](#), section 2.5.1.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

The Panel is satisfied that the disputed domain name has been registered in bad faith for the following reasons:

- (a) The Panel is satisfied that the Complainant’s BUNGE Mark has an established reputation in respect of the Complainant’s goods and services as a result of its trading history and length of use.
- (b) Paragraph 2 of the UDRP puts the burden on registrants where it states:

“By applying to register a domain name, or asking us to maintain or renew a domain name registration, you hereby represent and bond to us that:[...] to your knowledge, the registration of the domain name will not infringe upon or otherwise violate the rights of a third party [...]. It is your responsibility to determine whether your domain name infringes or violates someone else’s rights.”

The Panel is satisfied that the Respondent had knowledge of the Complainant’s BUNGE Mark when he registered the disputed domain names. Any search carried out by the Respondent would have revealed the Complainant, its trademark rights and its established use of the BUNGE Mark. Further, upon registration, the Respondent replicated parts of the Complainant’s website <bunge.com> and published these at the two disputed domain names. This further demonstrates knowledge of the Complainant and its rights.

In this regard the Respondent was given the opportunity to respond to the Complaint but has chosen not to do so. The Panel is entitled to draw adverse inferences from that failure.

The Panel is also satisfied that the Respondent is using the disputed domain names in bad faith for the following reasons:

- (a) The disputed domain names prominently use the BUNGE trademark and the website located at each disputed domain name has replicated parts of the Complainant's legitimate website <bunge.com>. Internet users will be attracted to the disputed domain names thinking that this is the Complainant or is connected with the Complainant when there is no such connection.
- (b) The Panel is satisfied that there is a serious risk of both disputed domain names being used for scams of potential investors and customers with the Respondent profiting from the Complainant's reputation and standing in the agri-business industry. The fact that both disputed domain names include the word "investments" heightens the risk.
- (c) The Respondent's registration of the disputed domain names prevents the Complainant from reflecting its BUNGE trademark in a corresponding domain name.
- (d) Again, the Panel is entitled to draw adverse inferences from the failure of the Respondent to respond to the detailed Complaint and factual allegations made by the Complainant. In the circumstances that failure supports the Panel's conclusion that use of the disputed domain names are used in bad faith.

Based on the available record, the Panel finds that the Complainant has established the third element 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 disputed domain names <bunge-investments.com> and <bunge-investments.org> be transferred to the Complainant.

/Andrew Brown K.C./

Andrew Brown K.C.

Sole Panelist

Date: April 15, 2024