

ADMINISTRATIVE PANEL DECISION

Syngenta Participations AG v. nestleinr nestleinr
Case No. D2024-1454

1. The Parties

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

The Respondent is nestleinr nestleinr, India.

2. The Domain Name and Registrar

The disputed domain name <syngentainr.com> is registered with CloudFlare, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 5, 2024. On April 5, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 5, 2024, 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 (Data Redacted) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 10, 2024, 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 amendment to the Complaint on April 10, 2024.

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”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on April 17, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 7, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 16, 2024.

The Center appointed Torsten Bettinger as the sole panelist in this matter on May 21, 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 a global agri-business employing 30,000 employees in 90 countries. It operates websites connected to its various domain names including by way of example <syngenta.com>, <syngenta.co.in>, <syngenta.cn>, <syngenta-online.com>, <syngenta.cn> and <syngenta.de>. It is the registered proprietor of inter alia the following trade mark registrations:

- International Trademark Registration No. 732663 SYNGENTA (word) registered on March 8, 2000 for a wide variety of goods and services in classes 1, 2, 5, 7, 8, 9, 10, 16, 29, 30, 31, 32, 35, 36, 41, and 42.
- India Trade Mark Registrations No. 888597 SYNGENTA renewed on November 26, 2019 in class 1, and No. 888606 renewed on November 26, 2019 in class 5.

The disputed domain name was registered on March 9, 2024, and resolves to an active website that displays a login page including the Complainant's trademark, logo, and agricultural images. The Complainant also provided some evidence that the disputed domain name has been used in a fraudulent job scam via WhatsApp.

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 name.

With regard to the requirement of identity or confusing similarity between the trademark and the disputed domain name pursuant to paragraph 4(a)(i) of the Policy, the Complainant asserts that:

- the disputed domain name consists of the SYNGENTA mark in its entirety;
- the addition of the acronym "inr" is not sufficient to escape the finding that the disputed domain name is confusingly similar to the trademark SYNGENTA as it is the currency code used for the Indian rupee, the official currency of the Republic of India.

With regard to the Respondent having no rights or legitimate interests in the disputed domain name, the Complainant submitted that:

- the Respondent has no affiliation with the Complainant nor is the Respondent authorized to use the Complainant's registered trademark;
- the disputed domain name is resolving to a site impersonating the Complainant.

Finally, with regard to the disputed domain name having been registered and being used in bad faith, the Complainant asserts that:

- the Respondent has used the Complainant's trademark, logo, and agricultural images to deceive the public into thinking the website to which the disputed domain name resolves is created or authorized by the Complainant;
- in WhatsApp correspondence referring to the website at "www.syngentainr.com" the Respondent provides fake SYNGENTA job offers and non-existent bonus opportunities;
- the Respondent's fraudulent activities are likely to damage the Complainant's business reputation.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy states that the Complainant must prove each of the three following 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

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 Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, "inr", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 name. 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 name such as those enumerated in the Policy or otherwise.

Based on the record, the Complainant asserts without contradiction by the Respondent that the Respondent has used the disputed domain name for a website displaying the Complainant's trademark, logo and agricultural images in order to deceive the public into thinking the content of the website is created or authorized by the Complainant and is promoting fake job offers and non-existent business opportunities in correspondence referring to the website to which the disputed domain name resolves. Panels have held that

the use of a domain name for illegal activity, here impersonating the Complainant for fraudulent purposes, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel therefore 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.

In the present case, the Panel notes that the Complainant provided evidence of multiple trademark registrations for the SYNGENTA mark that predate the registration of the disputed domain name.

In light of the extensive use of the Complainant's SYNGENTA trademark and the fact that the disputed domain name resolved to a website that apparently attempts to impersonate the Complainant, the Panel has no doubt that the Respondents was aware of the Complainant and the Complainant's trademark rights when registering the disputed domain name.

The Panel therefore concludes that the Respondent registered the disputed domain name in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

The Respondent registered the disputed domain name with the bad faith intent to attract Internet users, for commercial gain, by creating a likelihood confusion with the Complainant. Moreover, the website has deceived consumers by using the Complainant's trademark, logo and agricultural images and displaying fake job offers and money opportunities which are likely to damage the Complainant's business.

Panels have held that the use of a domain name for illegal activity, here impersonating the Complainant for fraudulent purposes, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Having reviewed the record, the Panel therefore finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

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 name, <syngentainr.com>, be transferred to the Complainant.

/Torsten Bettinger/

Torsten Bettinger

Sole Panelist

Date: June 4, 2024