

ADMINISTRATIVE PANEL DECISION

Bunge SA v. Kimberly Bass
Case No. D2024-1554

1. The Parties

The Complainant is Bunge SA, Switzerland, represented by 101domain.com, United States of America ("United States").

The Respondent is Kimberly Bass, United States.

2. The Domain Name and Registrar

The disputed domain name <bungesupply.com> is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 11, 2024. On April 12, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 12, 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 (Information not available in WhoIs) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 15, 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 amended Complaint on April 17, 2024.

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 the Respondent of the Complaint, and the proceedings commenced on April 22, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 12, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 20, 2024.

The Center appointed Steven A. Maier as the sole panelist in this matter on May 24, 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 company registered in Switzerland. It is the trademark-holding entity for a group of companies under a parent company, Bunge Global SA. The Complainant, the parent company and such other of the group companies as may be relevant are referred to for convenience as the Complainant in the remainder of this decision.

The Complainant is a provider of agricultural products, including grains and fertilizers, with the objective of the global stabilization of crop infrastructure and sustaining fuel renewable energy solutions.

The Complainant is the owner of various trademark registrations comprising or including the mark BUNGE, including for example:

- United States trademark registration number 2036787 for the word mark BUNGE, registered on February 11, 1997 for edible vegetable oils in International Class 29; and

- European Union trademark registration number 002906832 for the word mark BUNGE, registered on November 11, 2005 for a wide range of agricultural and related goods and services in numerous International Classes.

The Complainant operates a principal website at “www.bunge.com”. The website adopts a particular look and feel and includes a distinctive image of a sunrise over a crop field (the “Sunrise Image”).

The Complainant is the registrant of numerous domain names including the mark BUNGE, many of which redirect to its principal website. Those registrations include, for example, <bungefoods.com>, <bungeharvest.com> and <bungelogistics.com>.

The disputed domain name was registered on February 6, 2024.

Prior to its suspension on or about March 14, 2024, at the request of the Complainant, the disputed domain name resolved to a website headed “BUNGE SUPPLY USA”. The website adopted a similar look and feel to the Complainant’s website, including the use of an image similar to the Sunrise Image as a background on its homepage. The website purported to offer a wide range of agricultural products, including edible oils, and included a contact form for completion by the user.

5. Parties’ Contentions

A. Complainant

The Complainant states that it was founded in 1818 and now operates approximately 300 facilities in over 40 counties, employing in excess of 20,000 people. It submits that its first-use date in connection with the United States trademark referred to above was 1988 and that it has used the trademark continuously for over three decades. The Complainant refers to its website, which provides further information concerning its corporate profile and values.

The Complainant submits that the disputed domain name is confusingly similar to its BUNGE trademark. It contends that the disputed domain name merely adds the dictionary term “supply” to its trademark, thereby attempting to confuse Internet users for fraudulent purposes.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It states that it has no relationship with the Respondent and has never authorized it to use its BUNGE trademark, that the Respondent has not commonly been known by the disputed domain name, and that the Respondent is not making any bona fide commercial use of the disputed domain name. The Complainant submits that, on the contrary, the Respondent has used the disputed domain name in an

attempt to impersonate the Complainant. It submits that the Respondent has also configured MX records upon the disputed domain name, thereby indicating its intention fraudulently to correspond with the Complainant's customers.

The Complainant submits that the disputed domain name has been registered and is being used in bad faith. It contends that the Respondent has used the disputed domain name for a website that has a similar look and feel to its own website and offers the exact products for which it is itself renowned. It asserts that the Respondent was obviously aware of the Complainant's BUNGE trademark and its business in these circumstances. The Complainant submits that, in addition to its use of a deliberately misleading website, the Respondent has configured MX records with further dishonest intent.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (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

The Complainant has established that it is the owner of registered trademark rights in the mark BUNGE. The disputed domain name wholly incorporates that mark, together with the additional term "supply", which does not prevent a finding of confusing similarity between the Complainant's trademark and the disputed domain name. The Panel therefore finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

In the view of the Panel, the Complainant's submissions set out above give rise to a prima facie case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. However, the Respondent has failed to file a Response in this proceeding and has not submitted any explanation for its registration and use of the disputed domain name, or evidence of rights or legitimate interests on its part in the disputed domain name, whether in the circumstances contemplated by paragraph 4(c) of the Policy or otherwise. The Panel concludes, moreover, that the Respondent registered and has used the disputed domain name in an attempt to impersonate the Complainant, which cannot give rise to rights or legitimate interests on the Respondent's part. The Panel therefore finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C. Registered and Used in Bad Faith

The Panel finds the Complainant's trademark BUNGE to be distinctive, and to have become widely associated in numerous countries around the world with the Complainant's agricultural products and services. The Respondent has provided no explanation for its registration of the disputed domain name,

which has been used for the purpose of a website which the Panel finds to have impersonated the Complainant's business. The Panel infers in the circumstances that the Respondent registered the disputed domain name with the Complainant's trademark in mind and with the intention of taking unfair commercial advantage of the goodwill attaching to that trademark.

The Panel finds the Respondent's website to be similar in its look and feel to the Complainant's website and to offer products similar to those offered by the Complainant. This, coupled with the Respondent's adoption of the Complainant's BUNGE trademark within the disputed domain name, and the absence of any explanation from the Respondent, leads the Panel to conclude that the Respondent has used the disputed domain name to impersonate the Complainant by misrepresenting its website as owned or operated by, or otherwise legitimately affiliated with, the Complainant's trademark.

The Panel finds in particular that, by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of its website or of a product or service on its website (paragraph 4(b)(iv) of the Policy).

The Panel finds in the circumstances that the disputed domain name has been registered and is being used 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 disputed domain name <bungesupply.com> be transferred to the Complainant.

/Steven A. Maier/

Steven A. Maier

Sole Panelist

Date: June 7, 2024