

## **ADMINISTRATIVE PANEL DECISION**

Syngenta Participations AG v. Jiaosoa miansa

Case No. D2024-3326

### **1. The Parties**

1.1 The Complainant is Syngenta Participations AG, Switzerland, internally represented (the “Complainant”).

1.2 The Respondent is Jiaosoa miansa, United States of America (“United States”) (the “Respondent”).

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

2.1 The disputed domain name <syngentaopens.com> (the “Disputed Domain Name”) is registered with NameSilo, LLC (the “Registrar”).

### **3. Procedural History**

3.1 The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 14, 2024. On August 14, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On August 14, 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 (Domain Administrator, See PrivacyGuardian.org) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 16, 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 August 19, 2024.

3.2 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”).

3.3 In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on August 21, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 10, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 13, 2024.

3.4 The Center appointed Ike Ehiribe as the sole panelist in this matter on September 23, 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

4.1 The Complainant is a global science - based agtech Swiss corporation based in Basel, Switzerland; with 30,000 employees in 90 countries dedicated to the purpose of bringing plant potential to life. It is said that the Complainant relies on world - class science, global reach and commitment to customers to facilitate the increase of crop productivity and the protection of the environment. Some of the Complainant's products include agrochemicals for crop protection as well as vegetable and flower seeds. The Complainant owns the SYNGENTA trademark and registered the trademark world-wide. Those registrations include: International Trademark SYNGENTA No. 732663 in classes 1, 2, 5, 7, 8, 9, 10,16, 29, 30, 31, 32, 35, 36, 41 and 42, registered as of March 8, 2000, with designations in the United Kingdom, France, Iceland, Germany, China, the Russian Federation and Viet Nam. The Complainant is also owner of many domain names including: <syngenta.com>, <syngenta.co.in>, <syngenta-us.com>, <syngenta.cn>, <syngenta-online.com>, <syngenta.co>, <syngenta.co.uk>, <syngenta.fr>, <syngenta.ru>, and <syngenta.vn>.

4.2 The Respondent in this proceeding is said to be based in the United States. According to the Whois record, the Respondent registered the Disputed Domain Name <syngentaopens.com> on July 29, 2024, which it is said currently resolves to a pay-per-click ("PPC") site.

#### 5. Parties' Contentions

##### A. Complainant

5.1 The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Disputed Domain Name.

Notably, the Complainant contends that upon a visual comparison of the Disputed Domain Name <syngentaopens.com> with the Complainant's SYNGENTA trademark the Panel will find, that the confusing similarity requirement has been established. This because the Disputed Domain Name wholly encompasses the Complainant's trademark. Furthermore, it is said that the addition of the adjective "opens" is clearly meant to confuse the public into thinking that the Disputed Domain Name is owned and operated by the Complainant. The Complainant relies on an extract from the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)") which states as follows: "Where the relevant trademark is recognizable within the Disputed Domain Name, in addition of other terms (whether descriptive, geographical, pejorative, meaningless or otherwise) would not prevent finding of confusing similarity under the first element". See in this regard, *Sanofi v. Contact Privacy Inc. Customer 1241050366/ Name Redacted*; WIPO Case No.D2017-0262. The Complainant also contends that the addition of terms and common words to a well-known trademark does not sufficiently eliminate the risk of confusion.

5.2 The Complainant further contends that the Respondent has no rights to, or legitimate interests, in respect of the Disputed Domain Name as the Respondent has no affiliation with the Complainant nor is the Respondent authorised to use the Complainant's registered trademark. The Complainant refers to Annex 5 attached to the Complaint to assert that the Disputed Domain Name is not being used for a legitimate interest as the Disputed Domain Name resolves to a PPC site.

5.3 On the question of bad faith registration, the Complainant submits that the Respondent registered the Disputed Domain Name in bad faith considering that the Disputed Domain Name resolves to a PPC site with agricultural themed links such as "Farmer's Dog Food" and "Tree Service". It is submitted that the choice of

a PPC site with agricultural links suggests that the Respondent has actual knowledge of the Complainant's business and services and is therefore attempting to trade-off a well known brand so as to divert Internet traffic for commercial gain. It is further submitted that it is most unlikely that the Respondent knew nothing of the Complainant's business before registering the Disputed Domain Name, since the Disputed Domain Name is not being used in a bona fide offering of goods or services or a legitimate noncommercial or fair use but is rather a bad faith registration in violation of the UDRP paragraph 4(b)(iv). The Complainant states further that the Disputed Domain Name is being used for fraudulent activities as many fraudulent emails from the Disputed Domain Name are being sent to individuals, offering fake jobs at the Complainant's offices, thereby confusing the public and causing significant damage to the Complainant's business reputation. It is therefore submitted that the use of the Disputed Domain Name for such illegitimate activity is considered as evidence of bad faith registration under paragraph 4(b)(iv) of the UDRP Rules and section 3.1.4 of the [WIPO Overview 3.0](#). In addition, it is contended that the Disputed Domain Name was created anonymously which in itself is evidence of bad faith following previous UDRP decisions such as *Carrefour.v. Contact Privacy Inc. Customer 0151451752/ Lucas Montanaro*, WIPO Case No. [D2018-2052](#) etc. Finally, it is submitted that the Respondent's failure to respond to the Complainant's email notification of August 6, 2024 outlining their intellectual property rights is further evidence of bad faith registration. See *Society des Produits Nestle SA v. Deleting domain, Umbeke Membe*, WIPO Case No. [D2008-0738](#).

## **B. Respondent**

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

## **6. Discussion and Findings**

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

6.1 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 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 such as "opens" in this case may bear on assessment of the second and third elements, the Panel finds the addition of such a 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**

6.2 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.

Panels have held that the use of a domain name for illegal activity such as impersonation/passing off, or other types of fraud can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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

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

6.3 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.

Panels have found that the mere registration of a domain name that is confusingly similar, (particularly domain name names incorporating the trademark plus a descriptive term) to a widely known trademark by an unaffiliated entity can by itself create a presumption of bad faith. See [WIPO Overview 3.0](#), section 3.1.4. The Panel observes that the Respondent registered the Disputed Domain Name in July 2024 and therefore finds that the Respondent knew or ought to have known of the Complainant's well-known trademark and that the Respondent has deliberately elected to exploit the reputation of the Complainant's trademark for financial gain.

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.

Panels have held that the use of a domain name for illegal activity (impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. The Panel finds that in this case, the dispatch of fraudulent emails offering fake jobs to Internet visitors by the Respondent is evidence of bad faith use, capable of causing confusion to the public and damaging the Complainant's business.

Furthermore, the Panel notes that the Disputed Domain Name was resolving to a PPC website with commercial links related to competing services. This is further evidence of bad faith as the Respondent is using the Disputed Domain Name to intentionally attract for commercial gain Internet users to its website by creating a likelihood of confusion with the Complainant's mark.

Having reviewed the record, the Panel 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

7.1 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 <syngentaopens.com> be transferred to the Complainant.

*/Ike Ehiribe/*

**Ike Ehiribe**

Sole Panelist

Date: October 2, 2024