

ADMINISTRATIVE PANEL DECISION

BUNGE SA v. Derrick Hurst, aust
Case No. D2024-4211

1. The Parties

The Complainant is BUNGE SA, Switzerland, represented by 101domain.com, United States of America (“US”).

The Respondent is Derrick Hurst, aust, US.

2. The Domain Name and Registrar

The disputed domain name <buunge.com> is registered with Squarespace Domains LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 12, 2024. On October 14, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 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 (Information not available on WHOIS) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 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 October 18, 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 October 28, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 17, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 21, 2024.

The Center appointed Felipe Claro as the sole panelist in this matter on November 29, 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 contends that it was founded over 200 years ago, in 1818, and provides agricultural products, including grains and fertilizers, to stabilize crop infrastructure across the globe with the ultimate purpose of sustaining fuel renewable energy solutions. The Complainant operates approximately 300 facilities in more than 40 countries with over 23,000 employees and became a public corporation in 2001. The Complainant has been operating in the food processing sector for over two centuries, building worldwide brand recognition around its trademarked term BUNGE.

The Complainant owns the following registered trademarks, among others:

- 1) US Reg. No. 2,036,787, BUNGE, February 11, 1997, class 29.
- 2) US Reg. No. 2,682,681, BUNGE, February 4, 2003, classes 35, 36, 39, 40, and 42.
- 3) International Reg. No. 864636, BUNGE, December 15, 2004, classes 4, 5, 29, 30, 31, 32, 35, 36, 39, and 40.

The Complainant also owns the domain name <bunge.com> since 1996 and maintains an extensive portfolio of over 100 domain names consisting of country code Top-Level Domain (“ccTLD”) and generic Top-Level Domain (“gTLD”) variations of the trademark BUNGE.

The disputed domain name was registered on August 22, 2024, and it has been used for sending fraudulent emails.

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.

The Respondent is attempting to aggregate online traffic with the disputed domain for fraudulent means and to cause confusion. The typosquatting method is not only used to capitalize on notorious brand recognition but also demonstrates the Respondent’s intention to target the Complainant’s customers with a nearly identical domain name to the Complainant’s domain name <bunge.com>. Indeed, the Complainant’s customer contacted them to report that the disputed domain name was used to scam customers by making payments to a banking account unaffiliated with the Complainant.

The Complainant’s vast domain name portfolio significantly increases the likelihood of confusion when consumers are searching for the Complainant’s company and find the Respondent’s infringing website.

B. Respondent

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

6. Discussion and Findings

In view of the lack of a response filed by the Respondent as required under paragraph 5 of the Rules, this proceeding has proceeded by way of default. Hence, under paragraphs 5(f), 14(a) and 15(a) of the Rules, the Panel is directed to decide this administrative proceeding based on the Complainant's undisputed representations. In that regard the Panel makes the following specific findings.

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. The Panel finds the mark is recognizable 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.

The Respondent added an extra letter "u" to the Complainant's BUNGE mark. A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element. [WIPO Overview 3.0](#), section 1.9.

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.

The disputed domain name has been used for sending fraudulent emails to the Complainant's customers as further discussed below. Panels have held that the use of a domain name for illegal activity like phishing or impersonation 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

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.

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 has used the disputed domain name that is confusingly similar to the Complainant's BUNGE mark and its corporate name for phishing. By creating active mail exchange ("MX") records connected to a typosquatting disputed domain name and further using it to impersonate the Complainant, the Respondent was targeting the Complainant when registering the disputed domain name. The Respondent has attempted to scam the Complainant's customers through false communications that includes unauthorized invoices and bank accounts. The Respondent was using the disputed domain name to appear as if the sender was an employee of the Complainant in accounting that resolves payment disputes with customers.

Panels have held that the use of a domain name for illegal activity like phishing or impersonation constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. 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

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 <buunge.com> be transferred to the Complainant.

/Felipe Claro/

Felipe Claro

Sole Panelist

Date: December 13, 2024