

ADMINISTRATIVE PANEL DECISION

Monsanto Technology, LLC v. Bedmond Maize
Case No. DNL2023-0021

1. The Parties

The Complainant is Monsanto Technology, LLC, United States of America, represented by pm.legal, Germany.

The registrant of the Disputed Domain Name is Bedmond Maize, Netherlands (Kingdom of the), (the “Respondent”).

2. The Domain Name and Registrar

The Disputed Domain Name <monsantohollan.nl> is registered with SIDN through Realtime Register.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 21, 2023. On July 24, 2023, the Center transmitted by email to SIDN a request for registrar verification in connection with the Disputed Domain Name.

On July 24, 2023, SIDN 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 and contact information in the Complaint.

The Center sent an email communication to the Complainant on August 1, 2023, providing the information disclosed by SIDN, and inviting the Complainant to amend the Complaint in this light. The Complainant filed an amended Complaint on August 4, 2023.

The Center verified that the Complaint as amended satisfies the formal requirements of the Dispute Resolution Regulations for .nl Domain Names (the “Regulations”).

In accordance with the Regulations, articles 5.1 and 16.4, the Center formally notified the Respondent of the Complaint and the proceedings commenced on August 9, 2023. In accordance with the Regulations, article 7.1, the due date for Response was August 29, 2023. The Center did not receive any response. Accordingly, the Center notified the Respondent’s default on August 31, 2023.

The Center appointed Rogier de Vrey as the panelist in this matter on September 14, 2023. The Panel finds that it was properly constituted. The Panelist has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required to ensure compliance with the Regulations, article 9.2.

4. Factual Background

The Complainant is a well-known American agrochemical and agricultural biotechnology corporation founded in 1901. In 2018, it was acquired by Bayer AG as part of its crop science division.

The Complainant is owner of the MONSANTO trademark in numerous countries worldwide, including the European Union trademark with registration number 009798471, MONSANTO, registered on August 18, 2011. Aforementioned trademark will be referred to as “the Trademark”.

The Complainant has a subsidiary in the Netherlands (Kingdom of the), Monsanto Holland B.V. which supplies Europe (including the Netherlands).

The Center was informed by SIDN that the Disputed Domain name was registered by the Respondent on July 11, 2023. The Disputed Domain Name was not active at the time the Decision was rendered. However, according to evidence submitted by the Complainant, it appears that the Disputed Domain name was being used in connection with a scam website.

5. Parties’ Contentions

A. Complainant

The Complainant makes the following contentions:

- i. The Disputed Domain Name is identical or confusingly similar to the Trademark;
- ii. The Respondent has no rights or legitimate interests in the Disputed Domain Name;
- iii. The Disputed Domain Name has been registered or is being used in bad faith.

The Complainant contends that the Disputed Domain Name is confusingly similar to the Trademark as it incorporates the Trademark in its entirety, with the addition of the word “hollan” which is an obvious misspelling of the geographical term “holland” and at the same time the name of the Complainant’s subsidiary Monsanto Holland B.V.

The Respondent has no rights or legitimate interests in the Disputed Domain Name since the Complainant has not licensed or otherwise permitted the Respondent to use any of its trademarks and has not permitted the Respondent to apply for or use any domain name incorporating the Trademark. There is no evidence of the Respondent’s use of or demonstrable preparations to use the Disputed Domain Name or a name corresponding to the Disputed Domain Name in connection with a *bona fide* offering of goods or services. There is also no evidence suggesting a noncommercial or fair use of the Disputed Domain Name or evidence The Respondent is commonly known by the Disputed Domain Name or the name “MONSANTO”.

The Disputed Domain Name was registered in bad faith and was being used in bad faith to attract Internet users and divert Internet traffic to the scam website in connection with the Disputed Domain Name for the purpose of achieving commercial gain through the likelihood of confusion which may arise with the Trademark. Furthermore, the registration of the Disputed Domain Name prevents the Complainant from using it.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Panel finds that the Complainant has established the requirement of article 2.1(a) of the Regulations.

The Complainant is the owner of the Trademark within the European Union. The Complainant thus enjoys protection under Dutch law.

The Disputed Domain Name is confusingly similar to the Trademark as it incorporates the Trademark in its entirety, with the addition of the term "hollan" which is a (deliberate) misspelling of the geographical term "holland". The addition of a geographic or descriptive term to a trademark would not prevent a finding of confusing similarity under the first element, according to section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)).¹

The country code Top-Level-Domain ".nl" may be disregarded when, pursuant to article 2.1(a) of the Regulations, assessing the similarity between the Disputed Domain Name on the one hand and the asserted trademark on the other (see, *Roompot Recreatie Beheer B.V. v. Edoco LTD*, WIPO Case No. [DNL2008-0008](#)).

B. Rights or Legitimate Interests

The Panel finds that the Complainant has established the requirement of article 2.1(b) of the Regulations.

To establish this second requirement the Complainant must make out a *prima facie* case that the Respondent lacks rights or legitimate interests in a domain name. Since, generally speaking, proving that a respondent lacks rights or legitimate interests in a domain name may lead to the difficult if not impossible task of proving negative circumstances, it is sufficient for the complainant to show *prima facie* evidence the respondent lacks rights or legitimate interests in a domain name to shift the burden of production to the respondent (section 2.1 of the [WIPO Overview 3.0](#)).

The Respondent has not filed a reply to the Complainant's contentions and thus has not rebutted the Complainant's contentions. The evidence submitted by the Complainant shows that the Respondent is not making a legitimate noncommercial or fair use of the Disputed Domain Name. Instead, the website in connection to the Disputed Domain Name is a scam website falsely used for impersonating The Complainant's Dutch subsidiary Monsanto Holland B.V. using the Trademark.

Furthermore, the Respondent is not affiliated with the Complainant in any way and the Complainant has also not licensed or otherwise permitted the Respondent to use the Trademark.

Therefore, the Panel finds that there is no evidence and there are no indications that the Respondent has rights or legitimate interests in the Disputed Domain Name.

¹ In view of the fact that the Regulations are substantially similar to the Uniform Domain Name Dispute Resolution Policy ("UDRP"), it is well established that both cases decided under the Regulations and cases decided under the UDRP, and therefore [WIPO Overview 3.0](#), may be relevant to the determination of this proceeding (see, e.g., *Aktiebolaget Electrolux v. Beuk Horeca B.V.*, WIPO Case No. [DNL2008-0050](#)).

C. Registered or Used in Bad Faith

In light of the Complainant's contentions supported by the evidence submitted by the Complainant, the Panel finds that the Complainant has established the requirement of article 2.1(c) of the Regulations.

At the time of registration of the Disputed Domain Name the Trademark was already distinctive and well known. Therefore, the Respondent must have been aware of the Trademark at the time it registered the Disputed Domain Name.

Furthermore, the Disputed Domain Name has been used to falsely impersonate the Complainant's subsidiary by *inter alia* using the subsidiary's name and by using the Trademark thereby deliberately targeting the Complainant and its customers. The Respondent has used the Disputed Domain Name for commercial gain, by attracting Internet users to the website in connection with the Disputed Domain Name through the likelihood of confusion with the Trademark.

Therefore, the Panel finds that the Complainant has provided sufficient evidence of bad faith registration and bad faith use by the Respondent, as set out in article 3.2(b) and (d) of the Regulations.

7. Decision

For all the foregoing reasons, in accordance with articles 1 and 14 of the Regulations, the Panel orders that the domain name <monsantohollan.nl> be transferred to the Complainant.

/Rogier de Vrey/

Rogier de Vrey

Panelist

Date: September 28, 2023