

ADMINISTRATIVE PANEL DECISION

Syngenta Participations AG v. Blessed Office
Case No. D2022-2183

1. The Parties

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

The Respondent is Blessed Office, Spain.

2. The Domain Name and Registrar

The disputed domain name <syngenta.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 15, 2022. On June 15, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 16, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on June 20, 2022, 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 June 21, 2022.

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 June 23, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 13, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 18, 2022.

The Center appointed Anna Carabelli as the sole panelist in this matter on July 28, 2022. 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, science-based agricultural-tech (“agtech”) company with 28,000 employees in 90 countries. It develops agrochemicals for crop protection as well as vegetable and flower seeds.

The Complainant holds a portfolio of registrations for the trademark SYNGENTA in various jurisdictions, which includes: International Trademark SYNGENTA No. 732663 in classes 01, 02, 05, 07, 08, 09, 10, 16, 29, 30, 31, 32, 35, 36, 41, and 42, as of March 8, 2000, with designations in United Kingdom, France, Germany, China, Russian Federation, Viet Nam, and Kenya, among others. The Complainant has also registered SYNGENTA in numerous countries as national marks, such as in the United States of America (No. 3036058).

The Complainant also owns multiple domain names incorporating the SYNGENTA trademark including, amongst others: <syngenta.com>, <syngenta.biz>, <syngenta.org>, <syngenta.co.uk>, <syngenta.cn>, <syngenta.us.com>, <syngenta.fr>, and <syngenta.de>.

The disputed domain name was registered on April 7, 2022. The disputed domain name does not resolve to an active website. The evidence in the Complaint is that the disputed domain name leads to a webpage that states, “This site can’t be reached”.

5. Parties’ Contentions

A. Complainant

The Complainant submits that:

The disputed domain name is confusingly similar to the Complainant’s well-known trademark SYNGENTA. The only difference between the Complainant’s trademark and the disputed domain name is the substitution of the letter “e” with the letter “a” in the second syllable. In this connection, the Complainant notes according to the general position of UDRP panelists “a domain name which contains a common or obvious misspelling of a trademark normally will be found to be confusingly similar to such trademark, where the misspelled trademark remains the dominant or principal component of the domain name” (see *Sanofi, Gemzyme Corporation v. Domain Privacy*, WIPO Case No. [D2016-1193](#); see also *Washington Mutual, Inc. v. Phayze Inc, Peter Carrington and Party Night, Inc.*, WIPO Case No. [D2003-0283](#); and *The Vanguard Group, Inc. v. Lorna King*, WIPO Case No. [D2002-1064](#)).

The Respondent has no rights or legitimate interest in the disputed domain name. The Complainant has not licensed or otherwise authorized the Respondent to use the trademark SYNGENTA.

The disputed domain name was registered and is being used in bad faith. The current inactive status of the disputed domain name does not prevent a finding of bad faith under the doctrine of passive holding. The Respondent is trading on the reputation of the Complainant’s trademark and the likelihood of confusion to drive traffic to an inoperative site

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the Panel to decide the Complaint based on the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Under paragraph 4(a) of the Policy, the Complainant must prove each of the following:

- (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.

Paragraph 4(b) of the Policy sets out four illustrative circumstances, which for the purposes of paragraph 4(a)(iii) of the Policy, shall be evidence of registration and use of a domain name in bad faith.

Paragraph 4(c) of the Policy sets out three illustrative circumstances any one of which, if proved by the Respondent, shall be evidence of the Respondent's rights to or legitimate interests in the disputed domain name for the purpose of paragraph 4(a)(ii) of the Policy above.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has established rights over the trademark SYNGENTA based on the evidence submitted in the Complaint.

The disputed domain name consists of a reproduction of the Complainant's trademark SYNGENTA with the substitution of the letter "e" with the letter "a" in the second syllable, followed by the generic Top-Level Domain ("gTLD") ".com".

As highlighted in section 1.11 of the WIPO Overview of WIPO Panels View on Selected UDRP Questions, Third Edition ([WIPO Overview 3.0](#)), the addition of the gTLD ".com" is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test. Therefore, the relevant comparison to be made is with the second-level portion of the disputed domain name, *i.e.*; "synganta".

It is well established that a domain name, which consists of a common, obvious or intentional misspelling of a trademark is considered to be confusingly similar to the relevant mark for purpose of the first element (see [WIPO Overview 3.0](#), section 1.9).

This Panel finds that the substitution of the letter "e" with the letter "a" in the disputed domain name does not prevent a finding of confusing similarity. In fact, this substitution substantially does not change the optics and the pronunciation of the Complainant's trademark SYNGENTA and may be seen as an obvious or intentional misspelling.

In the light of all the above, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademarks and the Complainant has established element 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(c) of the Policy, a respondent may demonstrate its rights or legitimate interests in a domain name by showing any of the following circumstances, in particular but without limitation:

- (i) before any notice to it of the dispute, its use of, or demonstrable preparation to use the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods and services;
- (ii) it has been commonly known by the domain name, even if it has acquired no trademark or service mark rights;
- (iii) it is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, based on the following: (a) The Complainant holds prior rights in the globally registered SYNGENTA trademark, (b) The Respondent has no affiliation with the Complainant and has not been authorized to use its SYNGENTA trademark in any way, (c) the disputed domain name does not resolve to an active website and merely leads to a page that states "This site can't be reached".

According to section 2.1 of the [WIPO Overview 3.0](#), while 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 often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

Here the Panels finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. By not submitting a response, the Respondent has failed to invoke any circumstance, which could have demonstrated any rights or legitimate interests in the disputed domain name under paragraph 4(c) of the Policy. There is no indication before the Panel of any activity in relation to the disputed domain name that would give rise to rights or legitimate interests in the Respondent.

Therefore, the Panel finds that the Complainant has established paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

According to paragraph 4(a)(iii) of the Policy, the Complainant must establish that the disputed domain name has been registered and is being used in bad faith.

The SYNGENTA trademark is distinctive and unique to the Complainant, and been used globally for many years. This leads the Panel to conclude that the Respondent knew, or should have known that the disputed domain name it registered would be confusingly similar to the Complainant's trademark

As regards the use of the domain name, the currently inactive status of the disputed domain name does not prevent a finding of bad faith under the doctrine of passive holding. As stressed by many previous UDRP decisions, "While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details, and (iv) the implausibility of any good faith use to which the domain name may be put". (see section 3.3 of the [WIPO Overview 3.0](#); *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

The following considerations points to the Respondent's passive holding of the disputed domain name being in bad faith: (i) the Complainant's trademark SYNGENTA is distinctive and well-established, (ii) the Respondent has failed to submit a response to the Complaint or provide any evidence of good-faith use, and

(iii) there is no conceivable good faith use to which the disputed domain name could be put by the Respondent.

For all the above reasons, the Panel finds that the disputed domain name was registered and is being used in bad faith by the Respondent.

Therefore, the Complainant has established also paragraph 4(a)(iii) 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, <synganta.com> be transferred to the Complainant.

/Anna Carabelli/

Anna Carabelli

Sole Panelist

Date: August 11, 2022