

ADMINISTRATIVE PANEL DECISION

Bunge SA v. Micheal Algostinelli
Case No. D2024-0623

1. The Parties

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

The Respondent is Micheal Algostinelli, United States of America ("US").

2. The Domain Name and Registrar

The disputed domain name <buunge.cam> ("Disputed Domain Name") is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 10, 2024. On February 12, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On February 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 (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 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 added the registrant and contact information to the Complaint by way of email to the Center on March 1, 2024.

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 March 6, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 26, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 28, 2024.

The Center appointed Gabriela Kennedy as the sole panellist in this matter on April 5, 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 BUNGE group, comprising Bunge Limited, Bunge Global SA and Bunge SA, (the “Complainant’s Group”) was founded in 1818 and provides agricultural products across the globe. The Complainant’s Group operates approximately 300 facilities in over 40 countries with more than 20,000 employees and became a public corporation in 2001.

As the trademark holding entity of the Complainant’s Group, the Complainant owns several trade mark registrations for the BUNGE mark (the “Complainant’s Trademark”) in various jurisdictions, including, inter alia, US Trademark Registration No. 2036787 for BUNGE registered on February 11, 1997, in Class 29; US Trademark Registration No. 2682681 for **BUNGE** registered on February 4, 2003, in Classes 35, 36, 39, 40 and 42; and European Union (“EU”) Trademark Registration No. 002906832 for BUNGE registered on November 11, 2005 in Classes 1, 4, 5, 29, 30, 31, 32, 35, 36, 39 and 40.

The Complainant’s Trademark is fully incorporated in the domain name <bunge.com>, which resolves to the Complainant’s website.

The Disputed Domain Name was registered on June 3, 2023. The Disputed Domain Name was suspended by the Registrar (which is also the hosting provider) on January 26, 2024, upon the Complainant’s request. At the time of filing and the decision, the Disputed Domain Name resolved to an inactive website. The Complainant provided evidence that the disputed domain has been used in fraudulent correspondence with customers. The Respondent appears to be an individual located in the US based on the information provided by the Registrar.

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.

Notably, the Complainant contends the following:

- (a) The Disputed Domain Name is confusingly similar to the Complainant’s Trademark as it incorporates the Complainant’s Trademark in its entirety, save for the additional “u” from the string “bunge”;
- (b) The Respondent has no rights or legitimate interests in the Disputed Domain Name. The Respondent has not obtained any licence or authorisation from the Complainant to use the Complainant’s Trademark as part of a domain name or otherwise. There is no evidence of the Respondent’s use of, or demonstrable preparations to use, the Disputed Domain Name in connection with a bona fide offering of goods and services; and
- (c) The Complainant submitted that the Disputed Domain Name was registered for spear-phishing tactics and swindling the Complainant’s customers by impersonating a legitimate employee of the Complainant’s company.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements:

- (i) the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (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 by the Respondent in bad faith.

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 Panel finds the Complainant's Trademark is recognisable within the Disputed Domain Name. The Disputed Domain Name incorporates the BUNGE trademark in its entirety, save for the additional "u" from the string "bunge". The intentional misspelling of the Complainant's Trademark does not alter this finding. [WIPO Overview 3.0](#), section 1.9. It is also well established that the generic Top-Level Domain, ".cam" in this case, may be disregarded. [WIPO Overview 3.0](#), section 1.11.1. Accordingly, the Disputed Domain Name is confusingly similar to the Complainant's Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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 recognised 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 Respondent's failure to file a Response may result in the Panel drawing appropriate inferences from such default. The Panel may also accept all reasonable and supported allegations and inferences flowing from the Complainant as true see *Entertainment Shopping AG v. Nischal Soni, Sonik Technologies*, WIPO Case No. [D2009-1437](#); and *Charles Jourdan Holding AG v. AAIM*, WIPO Case No. [D2000-0403](#).

The Respondent would likely not have adopted the Complainant's Trademark if not for the purpose of creating an impression that the Disputed Domain Name is associated with, or originates from, the Complainant. In this regard, the Panel notes the composition of the Disputed Domain Name, which the Panel considers is an intentional misspelling of the Complainant's Trademark. This is especially the case when the Respondent used the Disputed Domain Name to impersonate the Complainant's employee to perpetrate fraud against its customers.

There is no evidence to suggest that the Respondent's use of, or demonstrable preparations to use the Disputed Domain Name or a name corresponding to the Disputed Domain Name, is in connection with a bona fide offering of goods or services or be regarded as legitimate noncommercial or fair use.

Panels have held that the use of a domain name for illegal activity, such as fraud in this case, 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.

In the present case, it is difficult to conceive of any plausible use of the Disputed Domain Name that would amount to good faith use, given that the Respondent has used it to perpetrate fraud against the Complainant's customers. The Respondent was aware of the existence of the Complainant's rights in the Complainant's Trademark when the Respondent registered and used the Disputed Domain Name. Further, the Respondent failed to respond to the Complainant's contentions and has provided no evidence of its actual or contemplated good faith use of the Disputed Domain Name.

Panels have held that the use of a domain name for illegal activity, such as fraud in this case, 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.cam> be transferred to the Complainant.

/Gabriela Kennedy/

Gabriela Kennedy

Sole Panelist

Date: April 19, 2024