

ADMINISTRATIVE PANEL DECISION

Syngenta Participations AG v. Syngenta Agrichemical Company, Syngenta Agrichemical Company
Case No. D2022-3308

1. The Parties

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

The Respondent is Syngenta Agrichemical Company, Syngenta Agrichemical Company, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <usa-syngenta.com> is registered with Realtime Register B.V. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 6, 2022. On September 6, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 9, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on September 13, 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 amended Complaint on September 16, 2022.

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 September 20, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 10, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 11, 2022.

The Center appointed Clive Duncan Thorne as the sole panelist in this matter on October 25, 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 *agtech* company. It has 30,000 employees in 90 countries. It is dedicated to the purpose of bringing plant potential to life. It does so using world class science, global reach and a commitment to its customers. It assists in increasing crop productivity, protecting the environment, and improving the health and quality of life.

Its products include agrochemicals for crop protection as well as vegetable and flower seeds. This can be seen from its website at “www.syngenta.com”.

It owns numerous trade mark registrations for the mark SYNGENTA relying particularly upon;

International trade mark No. 732663 dated March 8, 2000 designated to apply in *inter alia*, UK, France, Iceland, Germany, China, Russian Federation and Viet Nam in classes 01, 02, 05, 07,08, 09,10,16,29,30, 31,32, 35, 36, 41 and 42.

United States trade mark SYNGENTA No. 3036058 dated July 7, 2005 in classes 1, 2, 5, 7, 8, 9, 10, 16, 29, 30, 31, 32, 35, 36, 41 and 42.

Evidence of the registrations is set out at Annexes 3a, 3b and 3c to the Complaint. All the registrations relied upon predate the date of registration of the disputed domain name on August 5, 2022.

The Complainant is also the owner of numerous domain names incorporating the trade mark SYNGENTA including; <syngenta.com>, <syngenta-us.com>, <syngenta.cn>, <syngenta-online.com>, <syngentaonline.com>, <syngenta.co>, <syngenta.co.uk>, <syngenta.fr>, <syngenta.de>, <syngenta.ru>, and <syngenta.vn>.

In the absence of a Response and contrary evidence the Panel finds the above evidence adduced by the Complainant to be true.

5. Parties' Contentions

A. Complainant

The Complainant submits;

- i. The disputed domain name incorporating the Complainant's mark SYNGENTA and the geographical description “USA” is confusingly similar to the mark SYNGENTA;
- ii. There is no evidence showing that the Respondent has rights or legitimate interests in the disputed domain name;
- iii. The evidence of the Respondent's use of the disputed domain name shows that it was being used fraudulently and therefore in bad faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has established on the basis of the evidence set out in Section 4 above that it has registered trade mark rights in many countries of the world for the mark SYNGENTA.

The disputed domain name consists of the prefix “USA” joined by a hyphen to the Complainant’s mark SYNGENTA. SYNGENTA is the dominant part of the domain name. “USA” is a geographical descriptive abbreviation for the United States connoting a link with the United States. The mark SYNGENTA is recognizable in the disputed domain name. In the Panel’s view, the addition of prefix “USA” to the mark does not prevent a finding of confusing similarity.

It is also supported by previous authority including *BHP Billiton Innovation Pty Ltd v. Oloyi*, WIPO Case No. [D2017-0284](#) where the disputed domain name consisted of the Complainant’s trade mark BHPBILLITON together with “USA” *ie.* <bhpbillitonusa.com> and in which that panel found the domain name to be confusingly similar to the Complainant’s trade mark.

Accordingly this Panel finds the disputed domain name to be confusingly similar to the Complainant’s mark SYNGENTA within paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant points out that there is no evidence that the Respondent has any affiliation with the Complainant nor is the Respondent authorized to use the Complainant’s registered trade mark SYNGENTA. In such circumstances, the burden of proof falls upon the Respondent to adduce evidence showing rights and legitimate interests in the disputed domain name. In the absence of a Response it fails to do so.

However, the underlying Whois Information referred to at Paragraph B7 of the complaint shows that the Registrant of the disputed domain name is *Syngenta Agrichemical Company*. The Complainant points out that this is “fake information” and an attempt to impersonate the Complainant. Further evidence of this is set out in Section C below.

Having considered the evidence the Panel is satisfied that there is no evidence showing that the Respondent has rights or legitimate interests in the disputed domain name within paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Complainant submits on the basis of the evidence of the Respondent’s activities which it adduces that the disputed domain name was being used as part of a fraudulent hiring scheme which began by contacting victims through the social media application *Telegram*. A person posing as an employee of the Complainant conducts an “interview” with a job-seeker. An extract from the “interview” is exhibited at Annex 4 to the Complaint from which it can be seen that the fake interviewer uses language from the Complainant’s website to describe the Complainant and then tells the job applicant to expect to receive an email from <usa-syngenta.com> *ie.* the disputed domain name.

Further evidence is set out in Annex 5 to the Complaint including an email purportedly from the Complainant at “[redacted]@usa-syngenta.com” notifying the potential applicant / employee that they have been employed by the “Complainant” and that they are required to submit paperwork and documentation. The signature block purportedly refers to the Syngenta Group Chief Human Resources Officer. As submitted by the Complainant the email is a clear phishing attempt to obtain personal information from individuals deceived into thinking they have been hired for a new job. Having considered the evidence the Panel is satisfied that this constitutes phishing.

As submitted by the Complainant, use of a domain name for phishing purposes is manifestly bad faith. In support the Complainant cites an earlier authority where on similar evidence in which phishing activity occurred under the guise of job recruiting; *Citrix Systems Inc. v. Registration Private, Domains By Proxy, LLC /Name Redacted*, WIPO Case No. [D2020-1255](#), there was a finding of bad faith.

The Panel also takes into account that the Respondent used a privacy service to hide its identity. This has frequently been found to support a finding of bad faith.

The Panel is satisfied that the evidence of the Complainant using the disputed domain name for phishing activity is plain and that this constitutes clear evidence of the registration and use of the domain name in bad faith within 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, <usa-syngenta.com> be transferred to the Complainant.

/Clive Duncan Thorne/

Clive Duncan Thorne

Sole Panelist

Date: November 8, 2022