

## **ADMINISTRATIVE PANEL DECISION**

Syngenta Participations AG v. 石磊 (Lei Shi)  
Case No. D2023-0494

### **1. The Parties**

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

The Respondent is 石磊 (Lei Shi), China.

### **2. The Domain Name and Registrar**

The disputed domain name <careerssyngenta.com> is registered with Chengdu West Dimension Digital Technology Co., Ltd. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on February 2, 2023. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 3, 2023, 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) and contact information in the Complaint. On the same day, the Center sent an email communication to the Complainant, 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 in English on the same day.

On February 3, 2023, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On the same day, the Complainant submitted a request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

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 in English and Chinese of the Complaint, and the proceedings commenced on February 13, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 5, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 6, 2023.

The Center appointed Matthew Kennedy as the sole panelist in this matter on March 17, 2023. 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 part of the Syngenta agricultural science and technology group, which provides agrochemicals for crop protection as well as vegetable and flower seeds. The Complainant holds multiple trademark registrations, including International trademark registration number 732663 for SYNGENTA, registered on March 8, 2000, designating multiple jurisdictions, including China, and specifying goods and services in classes 1, 2, 5, 7, 8, 9, 10, 16, 29, 30, 31, 32, 35, 36, 41, and 42. That trademark registration remains current. The Complainant has also registered numerous domain names that incorporate “syngenta” including <syngenta.com> that is used in connection with a website that provides information about Syngenta products.

The Respondent is an individual resident in China. According to information presented by the Complainant, the Respondent has been involved in numerous proceedings under the UDRP in which panels found that he had registered and was using other domain names in bad faith. See, for example, *Accor v. 石磊 (Lei Shi)*, WIPO Case No. [D2021-0958](#); and *Asurion, LLC v. 石磊 (Lei Shi)*, WIPO Case No. [DCO2020-0057](#).

The disputed domain name was registered on December 29, 2022. It resolves to a landing page displaying Pay-Per-Click (“PPC”) links regarding “Financial Advice”, “Employment Recruitment”, and “Recruitment Platforms”.

The Complainant sent a cease-and-desist email to the Respondent on January 4, 2023 via a Whois mailbox forwarding facility on the Registrar’s platform.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The disputed domain name is confusingly similar to the Complainant’s SYNGENTA mark.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has no affiliation with the Complainant nor is the Respondent authorized to use the Complainant’s registered trademark. The disputed domain name is resolving to a PPC site.

The disputed domain name was registered and is being used in bad faith. The disputed domain name incorporates a well-known trademark and resolves to a PPC site. The Respondent did not reply to the Complainant’s cease-and-desist email. The Respondent has been involved in a significant number of UDRP cases, which clearly shows a systematic behavior of registering well-known trademarks in domain names. The disputed domain name is being used to mislead the public into thinking Syngenta career opportunities are available through the links on the site. It could potentially also be used to send misleading and fraudulent emails to job seekers.

##### **B. Respondent**

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

## 6. Discussion and Findings

### 6.1 Preliminary Issue: Language of the Proceeding

Paragraph 11(a) of the Rules provides that “unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding”. The Registrar confirmed that the Registration Agreement for the disputed domain name is in Chinese.

The Complainant requests that the language of the proceeding be English. Its main arguments are that the disputed domain name contains an English word, which implies that the Respondent has some proficiency in English or was attempting to target an English-speaking public; the disputed domain name redirects to a website displaying links in English; and the Respondent has been involved in previous proceedings under the UDRP that were conducted in English.

Paragraphs 10(b) and (c) of the Rules require the Panel to ensure that the Parties are treated with equality, that each Party is given a fair opportunity to present its case and that the administrative proceeding take place with due expedition. Prior UDRP panels have decided that the choice of language of the proceeding should not create an undue burden for the parties. See, for example, *Solvay S.A. v. Hyun-Jun Shin*, WIPO Case No. [D2006-0593](#); *Whirlpool Corporation, Whirlpool Properties, Inc. v. Hui'erpu (HK) electrical appliance co. Ltd.*, WIPO Case No. [D2008-0293](#).

The Panel observes that the Complaint and amended Complaint in this proceeding were filed in English. Despite the Center having sent an email regarding the language of the proceeding, and Notification of the Complaint, in both Chinese and English, the Respondent did not comment on the language of the proceeding or express any interest in otherwise participating in this proceeding. Therefore, the Panel considers that requiring the Complainant to translate the Complaint into Chinese would create an undue burden and delay whereas accepting the Complaint in English does not cause prejudice to either Party.

Having considered all the circumstances above, the Panel determines under paragraph 11(a) of the Rules that the language of this proceeding is English. The Panel would have accepted a Response in Chinese but none was filed.

### 6.2 Substantive Issues

Paragraph 4(a) of the Policy provides that the Complainant must prove each of the following 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 in bad faith.

#### A. Identical or Confusingly Similar

Based on the evidence presented, the Panel finds that the Complainant has rights in the SYNGENTA mark.

The disputed domain name wholly incorporates the SYNGENTA mark. It adds the word “careers” as its initial element. However, the addition of this word does not prevent a finding of confusing similarity because the SYNGENTA mark remains clearly recognizable within the disputed domain name. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.8.

The only other element in the disputed domain name is a generic Top-Level Domain (“gTLD”) extension (“.com”). As a standard requirement of domain name registration, this element need not be taken into consideration in a comparison with a trademark unless it has some impact beyond its technical function, which is not the case here. See [WIPO Overview 3.0](#), section 1.11.

Therefore, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights. The Complainant has satisfied the first element in paragraph 4(a) of the Policy.

## **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy sets out the following circumstances which, without limitation, if found by the panel, shall demonstrate that the respondent has rights to, or legitimate interests in, a disputed domain name, for the purposes of paragraph 4(a)(ii) of the Policy:

- (i) before any notice to [the respondent] of the dispute, [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; or
- (ii) [the respondent] (as an individual, business, or other organization) [has] been commonly known by the [disputed] domain name, even if [the respondent has] acquired no trademark or service mark rights; or
- (iii) [the respondent is] making a legitimate noncommercial or fair use of the [disputed] domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

As regards the first and third circumstances set out above, the disputed domain name resolves to a landing page displaying PPC links. The Complainant submits that the Respondent has no affiliation with it nor is the Respondent authorized to use the Complainant's registered trademark. The PPC links operate for the commercial gain of the Respondent, if he is paid to direct traffic to the linked websites, or for the commercial gain of the operators of the linked websites, or both. The Panel does not consider this to be a use of the disputed domain name in connection with a *bona fide* offering of goods or services that would create rights or legitimate interests, nor a legitimate noncommercial or fair use of the disputed domain name.

As regards the second circumstance set out above, the Respondent is identified in the Registrar's Whois database as “石磊 (Lei Shi)”, not the disputed domain name. There is no evidence that the Respondent has been commonly known by the disputed domain name.

In summary, the Panel considers that the Complainant has made a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent failed to rebut that *prima facie* case because he did not respond to the Complaint.

Therefore, based on the record of this proceeding, the Panel finds that the Complainant has satisfied the second element in paragraph 4(a) of the Policy.

## **C. Registered and Used in Bad Faith**

Paragraph 4(b) of the Policy provides that certain circumstances, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith. The fourth circumstance is as follows:

- (iv) by using the [disputed] domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent's] website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [the respondent's] website or location or of a product or service on [the respondent's] website or location.

As regards registration, the disputed domain name was registered in 2022, many years after the registration of the Complainant's SYNGENTA mark, including in China, where the Respondent is resident. The disputed domain name wholly incorporates the SYNGENTA mark, adding only the word "careers" and a gTLD extension (".com"). "Syngenta" appears to be a coined term that has no meaning other than as the Complainant's trademark. The Respondent provides no explanation for his choice of the disputed domain name. Numerous panels in previous UDRP proceedings have found that the Respondent registered other domain names incorporating third party trademarks in bad faith, which confirms that the incorporation of the SYNGENTA mark in the disputed domain name is not a coincidence. In view of these circumstances, the Panel is persuaded that the Respondent had the Complainant and its SYNGENTA mark in mind when he registered the disputed domain name.

As regards use, the disputed domain name resolves to a landing page displaying PPC links. It combines the word "careers" and the SYNGENTA mark, giving the false impression that it will resolve to a website regarding careers with the Complainant's group. The Panel considers the most likely explanation for the use of the disputed domain name to be that it is intended to divert Internet users searching for the Complainant's group, even though it would eventually be clear to those who reach the landing page that it is not affiliated with that group. Given these circumstances and the findings in Section 6.2B above, the Panel considers that by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to his website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of his website within the terms of paragraph 4(b)(iv) of the Policy.

Therefore, the Panel finds that the disputed domain name has been registered and is being used in bad faith. The Complainant has satisfied the third element in paragraph 4(a) 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 <careerssyngenta.com> be transferred to the Complainant.

*/Matthew Kennedy/*

**Matthew Kennedy**

Sole Panelist

Date: March 28, 2023