

## ADMINISTRATIVE PANEL DECISION

Bunge SA v. Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf and Ti Mi, [Organization Redacted]<sup>1</sup>  
Case No. D2023-5181

### 1. The Parties

Complainant is Bunge SA,<sup>2</sup> Switzerland, represented by Brand Enforcement Team 101 Domain, United States of America (“United States”).

Respondents are Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf, and Ti Mi, [Organization Redacted], United States.

### 2. The Domain Name and Registrar

The disputed domain name <bungeltd-inc.com> is registered with NameCheap, Inc. (the “Registrar”).

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<sup>1</sup> Because the Panel has determined that the disputed domain name was most likely registered without the involvement of the Registrant Organization disclosed by the Registrar, the Panel has redacted that portion of the Respondent’s name from this Decision. However, the Panel has attached as Annex 1 to this Decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent Organization disclosed by the Registrar. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding and has indicated Annex 1 to this Decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

<sup>2</sup> The Complaint was filed by, and is written from the perspective of, Bunge, SA of Geneva, Switzerland. Conversely, the Amended Complaint was filed by Bunge Limited of St. Louis, Missouri, United States, who is also the owner of record for the BUNGE trademark registrations cited by Complainant. Although it is never explicitly stated by Complainant, the Panel was able to confirm upon limited factual research that the same Complainant has its corporate headquarters in St. Louis, Missouri and its holding company in Geneva, Switzerland. As such, the Panel finds that for the purposes of this dispute the interests of Bunge SA and Bunge Limited are coextensive and refers to each together simply as “Complainant.” UDRP panels most often have accepted consolidated complaints in situations where multiple complainants have demonstrated common legal interests in the trademark rights on which a complaint is based, typically involving commonality based on an agency, licensing, or affiliate relationship between the co-complainants. See [WIPO Overview 3.0](#), section 1.4, see also, *ITT Manufacturing Enterprises, Inc., ITT Corporation v. Douglas Nicoll, Differential Pressure Instruments, Inc.*, WIPO Case No. [D2008-0936](#).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 13, 2023. On December 13, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 13, 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 (Information not available on WHOIS) and contact information in the Complaint. The Center sent an email communication to Complainant on December 14, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on December 22, 2023. The Center sent an email communication to Complainant on January 2, 2024, inviting Complainant to submit a further amendment. Complainant filed an amendment to the amended Complaint on January 2, 2024.

The Center verified that the Complaint together with the amended Complaint and amendment to 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 Respondent of the Complaint, and the proceedings commenced on January 3, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 23, 2024. On January 12, 2024, the Center received an email communication from a third-party. The Center notified the Parties of the third-party communication on January 17, 2024. On January 18, 2024, the Center received a second email communication from the third-party confirming that its organization name and physical address erroneously appeared in the contact information disclosed by the Registrar. The third party requested that its contact information be “removed as Respondent in this dispute”.

Respondent did not submit any formal response. Accordingly, the Center notified Respondent’s default on January 31, 2024.

The Center appointed Phillip V. Marano as the sole panelist in this matter on February 8, 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**

Founded over 200 years ago, Complainant is a global provider of agricultural products and food processing services with approximately 300 facilities in more than 40 countries around the world. Complainant offers information about its goods and services through its official <bunge.com> domain name and website. Complainant owns valid and subsisting registrations for the BUNGE trademark in numerous countries, including the trademark for BUNGE (United States Reg. No. 2,036,787), registered on February 11, 1997, with the earliest priority dating back to March 1988.

Respondent registered the disputed domain name on August 8, 2023. At the time this Complaint was filed, the disputed domain name resolved to an inactive webpage and a web browser security threat warning that read “This webpage is on the list of websites with an uncertain reputation or potentially unwanted content and has been blocked.” It was configured with mail exchange (“MX”) records to enable delivery of emails.

## 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.

Complainant asserts ownership of the BUNGE trademark and has adduced evidence of trademark registrations in multiple countries around the world including in the United States, with earliest priority dating back to March 1988. The disputed domain name is confusingly similar to Complainant's BUNGE trademark, according to Complainant, because it "contains the entirety of Complainant's trademark and directed consumers to a flagged website for wrongful purposes".

Complainant further asserts that Respondent lacks any rights or legitimate interests in the disputed domain name based on: the lack of any license or authorization from Complainant to Respondent; Respondent's use in connection with MX records with active email services; Respondent's use in connection with website content that triggered a web browser security threat warning; the lack of any evidence that Respondent is known by the term "bunge"; Complainant's abuse report to the Registrar and presumptive suspension by the Registrar; the well-known nature of Complainant's BUNGE trademark; and the lack of any "bunge" trademark registrations owned by Respondent.

Complainant argues that Respondent has registered and used the disputed domain name in bad faith for numerous reasons, including: Respondent's use in connection with MX records with active email services; Respondent's use in connection with website content that triggered a web browser security threat warning; and Complainant's abuse report to the Registrar and presumptive suspension by the Registrar.

### B. Respondent

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

## 6. Discussion and Findings

To succeed in its Complaint, Complainant must establish in accordance with paragraph 4(a) of the Policy:

- i. The disputed domain name is identical or confusingly similar to a trademark in which Complainant has rights;
- ii. 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.

Although Respondent did not reply to Complainant's contentions, the burden remains with Complainant to establish by a balance of probabilities, or a preponderance of the evidence, all three elements of paragraph 4(a) of the Policy. A respondent's default would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true. UDRP panels have been prepared to draw certain inferences in light of the particular facts and circumstances of the case, e.g., where a particular conclusion is prima facie obvious, where an explanation by the respondent is called for but is not forthcoming, or where no other plausible conclusion is apparent. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), sections 4.2 and 4.3; see also *The Vanguard Group, Inc. v. Lorna Kang*, WIPO Case No. [D2002-1064](#) ("The Respondent's default does not automatically result in a decision in favor of the Complainant. The Complainant must still prove each of the three elements required by Policy paragraph 4(a)").

## A. Preliminary Matter – Identity of Respondent

Complainant named “Information not available on WHOIS” as Respondent in its original Complaint; the Panel notes that this is a reflection of the Registrar’s Whois database apparently reflecting “Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf” in the registrant and registrant organization fields before this proceeding commenced. In response to the Center’s request to lock the domain name and provide registrant contact details, the Registrar disclosed the registrant name “Ti Mi”, the registrant organization name, and address belonging to a publicly traded American wholesale food distributor, and an “@gmail.com” email address. Courier delivery of the written notice sent by the Center prompted third party communications from counsel for that distributor asserting inter alia “[w]e are in receipt of the attached notice, but are unfamiliar with the domain associated with [it]” and “[w]hile the domain registration lists [our company] and its headquarters address, none of the other information listed is associated with [us]”. In view of the foregoing, there are issues regarding the true identity of Respondent.

In cases involving a privacy or proxy service, and irrespective of the disclosure of any underlying registrant, the appointed panel retains discretion to determine the respondent against which the case should proceed. [WIPO Overview 3.0](#), section 4.4.5. In this case, the Registrar has provided contact information which by all appearances is a fraudulent misuse of a third party’s identity. These circumstances should not affect in any way the Panel’s ability to make a determination on the merits of the case. Therefore, the Panel considers it appropriate for both “Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf” and “Ti Mi” to be named as Respondents in this case. See e.g., *The Royal Bank of Scotland Group plc v. Reserved Bench of Strategic Geographers / Domain ID Shield Service*, WIPO Case No. [D2012-1733](#) (concluding proxy registration service was proper respondent where inter alia the Registrar’s proxy service was unable to provide any reliable contact information for its customer). Particularly noting UDRP paragraph 8(a), panels have found that where a “disclosed” registrant is in turn what appears to be yet another privacy or proxy service ... or prima facie appears to be a false identity, such multi-layered obfuscation or possible cyberflight may support an inference of a respondent’s bad faith, e.g., in an attempt to shield illegitimate conduct from a UDRP proceeding. A number of panels have also made reference to paragraph 3.7.7.3 of the ICANN Registrar Accreditation Agreement which states that a Whois-listed registrant (referred to as the “Registered Name Holder”) accepts liability for any use of the relevant domain name unless it timely discloses the contact information of any underlying beneficial registrant. [WIPO Overview 3.0](#), Section 4.4.6 citing ICANN 2013 Registrar Accreditation Agreement, section 3.7.7.3 (“A Registered Name Holder licensing use of a Registered Name according to this provision shall accept liability for harm caused by wrongful use of the Registered Name, unless it discloses the current contact information provided by the licensee and the identity of the licensee within seven (7) days to a party providing the Registered Name Holder reasonable evidence of actionable harm.”).

## B. Identical or Confusingly Similar

Ownership of a nationally or regionally registered trademark serves as prima facie evidence that Complainant has trademark rights for the purposes of standing to file this Complaint. [WIPO Overview 3.0](#), section 1.2.1. Complainant submitted evidence that the BUNGE trademark has been registered in numerous countries with priority dating back to March 1988. Thus, the Panel finds that Complainant’s rights in the BUNGE trademark have been established pursuant to the first element of the Policy.

The only remaining question under the first element of the Policy is whether the disputed domain name is identical or confusingly similar to Complainant’s BUNGE trademark. In this Complaint, the disputed domain name is confusingly similar to Complainant’s BUNGE trademark because, disregarding the .com generic Top-Level Domain (“gTLD”), the entirety of the trademark is contained within the disputed domain name. [WIPO Overview 3.0](#), section 1.7 (“This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the domain name ... [I]n cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar...”). In regards to gTLDs, such as .com in the disputed domain name, they

are generally viewed as a standard registration requirement and are disregarded under the first element. [WIPO Overview 3.0](#), section 1.11.

The combination with the terms “ltd” and “inc” does not prevent a finding of confusing similarity between Complainant’s BUNGE trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.8 (Additional terms “whether descriptive, geographic, pejorative, meaningless, or otherwise” do not prevent a finding of confusing similarity under the first element); see also *Ashfords LLP v. Hioo Uoehojf*, WIPO Case No. [D2020-1579](#) (August 17, 2020) (finding that the addition of a corporate identifier does not prevent a disputed domain name from being confusingly similar to complainant’s trademark). Moreover, it is well established that neither the mere addition or removal a hyphen can prevent confusing similarity. See *Chernow Comm’ns, Inc. v. Kimball*, WIPO Case No. [D2000-0119](#) (May 18, 2000) (holding “that the use or absence of punctuation marks, such as hyphens, does not alter the fact that a name is identical to a mark”).

In view of the foregoing, the Panel concludes that Complainant has established the first element of the Policy.

### **C. Rights or Legitimate Interests**

Complainant must make out a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name, shifting the burden of production on this element to Respondent to come forward with evidence demonstrating such rights or legitimate interests. Where, as in this Complaint, Respondent fails to come forward with any relevant evidence, Complainant is deemed to have satisfied the second element of the Policy. [WIPO Overview 3.0](#), section 2.1.

It is evident that Respondent, identified by WhoIs data for the disputed domain name as “Ti Mi”, is not commonly known by the disputed domain name or Complainant’s BUNGE trademark.

UDRP panels have categorically held that use of a domain name for illegal activity—including the impersonation of the complainant and other types of fraud or phishing—can never confer rights or legitimate interests on a respondent. Circumstantial evidence can support a credible claim made by Complainant asserting Respondent is engaged in such illegal activity, including that Respondent has masked its identity to avoid being contactable, or that Respondent’s website has been suspended. [WIPO Overview 3.0](#), section 2.13. See e.g. *Graybar Services Inc. v. Graybar Elec, Grayberinc Lawrence*, WIPO Case No. [D2009-1017](#) (“Respondent has used the domain name to pretend that it is the Complainant and in particular to create false emails pretending that they are genuine emails coming from the Complainant and one of its senior executives”); see also *The Commissioners for HM Revenue and Customs v. Name Redacted*, WIPO Case No. [D2017-0501](#) (“In addition, the disputed domain names ... have had their web hosting suspended as a result of fraudulent activities. This is evidence of bad faith registration and use of the disputed domain names”). In its Complaint, Complainant has submitted persuasive evidence that: Respondent configured the disputed domain name to resolve to website content that prompted a web browser warnings blocking “an uncertain reputation or potentially unwanted content”; the disputed domain name is configured with MX records enabling the ability to send emails from the disputed domain name which integrates Complainant’s identical BUNGE trademark plus corporate identifiers; the Respondent utilized false contact details in association with a third party for purposes of registering the disputed domain name and likely to frustrate notice of a proceeding such as this; and at least one security vendor has flagged the disputed domain name as being malicious and used for phishing.

To this end, the second and third elements of the Policy may be assessed together where clear indicia of bad faith suggests that there cannot be any Respondent rights or legitimate interests. [WIPO Overview 3.0](#), section 2.15.

In view of the foregoing, the Panel concludes that Complainant has established the second element of the Policy.

#### D. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy proscribes the following non-exhaustive circumstances as evidence of bad faith registration and use of the disputed domain name:

- i. Circumstances indicating that Respondent has registered or Respondent has acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name registration to Complainant who is the owner of the trademark to a competitor of that Complainant, for valuable consideration in excess of Respondent's documented out of pocket costs directly related to the disputed domain name; or
- ii. Respondent has registered the disputed domain name in order to prevent the owner of the trademark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or
- iii. Respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or
- iv. By using the disputed domain name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's website or other online location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service on Respondent's website or location.

Wrongful use of others' trademarks to extort information from unsuspecting and unwary people, by using the disputed domain name for phishing activity, is considered abusive registration of the disputed domain name under the Policy. See *CareerBuilder, LLC v. Stephen Baker*, WIPO Case No. [D2005-0251](#); *The Boots Company, PLC v. The programmer adviser*, WIPO Case No. [D2009-1383](#). See e.g. *WSI Holdings Ltd. v. WSI House*, WIPO Case No. [D2004-1089](#) ("Respondent appears to be engaged in 'phishing' for mistaken potential employees of the Complainant ... Respondent (1) has adopted a confusingly similar domain name, (2) it has used the trade dress of the Complainant's website, and (3) it has sought to attract users to its site by creating confusion between its site and the Complainant's. It has clearly engaged in activity which fulfils the bad faith requirements of paragraph 4(b)(iv) of the Policy.") See e.g. *Go Daddy Operating Company, LLC v. Wu Yanmei*, WIPO Case No. [D2015-0177](#) (emails sent by the respondent from domain names using the complainant's trademark in an attempt to obtain complainant's customer information was held to be use of the disputed domain name for a phishing scheme and consequently bad faith under the Policy); *AB Electrolux v. Piotr Pardo*, WIPO Case No. [D2017-0368](#) (engaging in fraudulent email phishing activities through unauthorized use of a trademark for obtaining data or deriving information is construed as bad faith under the Policy). As discussed above, Complainant has proffered evidence that: Respondent configured the disputed domain name to resolve to website content that prompted a web browser warnings blocking "an uncertain reputation or potentially unwanted content"; the disputed domain name is configured with MX records enabling the ability to send emails from the disputed domain name which integrates Complainant's identical BUNGE trademark plus corporate identifiers; the Respondent utilized false contact details in association with a third party for purposes of registering the disputed domain name and likely to frustrate notice of a proceeding such as this; and at least one security vendor has flagged the disputed domain name as being malicious and used for phishing.

Indeed, under the circumstances, the Panel considers configuration of an email server on the disputed domain name as strong evidence that the disputed domain name has been registered and use in bad faith. The disputed domain name contains in its entirety Complainant's BUNGE trademark, and the record is devoid of any evidence to suggest that Respondent has any rights or legitimate interests in sending emails from the disputed domain name. Conversely, Complainant has made a plausible argument that the configuration of an email server creates a risk that Respondent is engaged in a phishing scheme, thereby using an email address associated with Complainant to try to steal valuable sensitive, financial or other confidential information from Complainant's clients or employees. Prior WIPO panel determinations have recognized the same risk, and considered it as additional evidence of bad faith. See e.g. *Accor SA v.*

*Domain Admin, C/O ID#10760, Privacy Protection Service INC d/b/a PrivacyProtect.org / Yogesh Bhardwaj, WIPO Case No. [D2017-1225](#); Carrefour S.A. v. WhoisGuard, Inc / Gaudet Jose, WIPO Case No. [DCO2018-0041](#) (“The Panel concurs with the Complainant that the connection of the disputed domain name with an email server configuration enhances a likelihood of confusion and presents a risk that the Respondent is engaged in a phishing scheme.”)*

Prior panel determinations also agree that the use of false registration data in connection with a disputed domain name further supports a finding of bad faith registration and use. See e.g., *Action Instruments, Inc. v. Technology Associates*, WIPO Case No. [D2003-0024](#) (Providing false contact information violates paragraph 2 of the Policy, which requires a registrant to represent that the statements it “made in [its] Registration Agreement are complete and accurate”. Maintaining that false contact information in the WHOIS records (which can easily be updated at any time) after registration constitutes bad faith use of the domain name because it prevents a putative complainant from identifying the registrant and investigating the legitimacy of the registration.); *Royal Bank of Scotland Group v. Stealth Commerce*, WIPO Case No. [D2002-0155](#); *Home Director, Inc. v. HomeDirector*, WIPO Case No. [D2000-0111](#). To this end, the case file contains persuasive evidence, in the form of third party correspondence with the Center, that Respondent has misappropriated patently false registration details belonging instead to a publicly traded American wholesale food distributor, whose identity has been redacted from this decision.

And finally, where it appears that a respondent employs a proxy service, or selects a registrar that applies default proxy services, merely to avoid being contacted by a complainant, or notified of a UDRP proceeding filed against it, UDRP panels tend to find that this supports an inference of bad faith. [WIPO Overview 3.0](#), section 3.6. Use of a privacy or proxy registration service to shield a respondent’s identity and elude or frustrate enforcement efforts by a legitimate complainant demonstrates bad faith use and registration of a disputed domain name. See *Fifth Third Bancorp v. Secure Whois Information Service*, WIPO Case No. [D2006-0696](#) (the use of a proxy registration service to avoid disclosing the identity of the real party in interest is also consistent with an inference of bad faith when combined with other evidence of evasive, illegal, or irresponsible conduct). Here, it is evident that Respondent has either intentionally employed a proxy registration service, or intentionally selected a registrar that offers default proxy registration services, to conceal its identity in conjunction with malicious website content and phishing emails.

In view of the foregoing, the Panel concludes that 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 <bungeltd-inc.com> be transferred to the Complainant.

*/Phillip V. Marano/*

**Phillip V. Marano**

Sole Panelist

Date: February 22, 2024