

ADMINISTRATIVE PANEL DECISION

Syngenta Participations AG v. Alex Mathias
Case No. D2024-4469

1. The Parties

The Complainant is Syngenta Participations AG, Switzerland, represented by Michelle O'Neil, Switzerland.

The Respondent is Alex Mathias, Kenya.

2. The Domain Name and Registrar

The disputed domain name <syngentaeast.com> is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on October 30, 2024. On October 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 31, 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 November 6, 2024, 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 November 7, 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 November 8, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 28, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 29, 2024.

The Center appointed Ugur G. Yalçiner as the sole panelist in this matter on December 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 Complainant is a global agricultural technology company with 30,000 employees in 90 countries, focused on helping farmers grow safe, nutritious food sustainably. Its products include agrochemicals for crop protection and vegetable and flower seeds.

The Complainant is the owner of several trademark registrations consisting of the term SYNGENTA, some of which are listed below:

- International trademark registration SYNGENTA with registration No. 732663, registered on March 8, 2000, in classes 1, 2, 5, 7, 8, 9, 10, 16, 29, 30, 31, 32, 35, 36, 41, and 42, with several designations including Kenya (where the Respondent reportedly resides); and
- United States of America trademark registration SYNGENTA with registration No. 3036058, registered on December 27, 2005, in classes 1, 2, 5, 7, 8, 9, 10, 16, 29, 30, 31, 32, 35, 36, 41, and 42.

Besides several domain names including the term SYNGENTA, the Complainant also owns the domain name <syngenta.com>, registered on August 9, 1999, and redirected to “www.syngenta.com”.

The disputed domain name was registered on October 21, 2024, and resolves to an active website where the Respondent offers products and services for sustainable agriculture.

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. The Complaint includes the following contentions:

(i) Identical or Confusingly Similar

The Complainant contends that the disputed domain name is confusingly similar to its trademark and is clearly intended to mislead the public into believing that it is owned and operated by the Complainant, since it contains its trademark SYNGENTA in whole along with the geographical indicator “East”.

(ii) Rights or legitimate interests

The Complainant alleges that the Respondent has no affiliation with the Complainant nor is the Respondent authorized to use the Complainant's registered trademark.

(iii) Registration and Use in Bad Faith

The Complainant states that the disputed domain name resolves to an active website containing agricultural images and stating “Products and Services for Sustainable Agriculture – High-Quality Seeds, Crop Protection, Innovative Solutions.” and that the use of trademark SYNGENTA combined with references to agricultural products, is an attempt to deceive the public into believing that the website and the content are created or authorized by the Complainant.

The Complainant alleges that it has a strong business presence in Kenya, where the website that the disputed domain name resolves, is based, it operates under the website “www.syngenta.co.ke”, its business entity in Kenya is called “Syngenta East Africa Limited” and its address is duplicated on the Respondent’s website with only the street number omitted, the website contains a contact page where the public can provide their email address and telephone number, which may be used for the Respondent’s own financial gain, the collection of personal information by impersonating the Complainant is potentially dangerous to the individuals, who supply their details and may then be the target of a scam, and it is also damaging to the Complainant’s reputation.

The Complainant contends that the Respondent has used its trademark in the disputed domain name to drive traffic to a site that could easily be deceived, it trades off the Complainant’s well-known trademark, and that the disputed domain name is not being used in a bona fide offering of goods or services or a legitimate noncommercial or fair use but is rather bad faith registrations in violation of the UDRP paragraphs 4(iv) and Rules, paragraph 3(b)(ix)(3)).

The Complainant states that it had sent notifications regarding its intellectual property rights to the email address listed on the Whois record, which were not delivered, and to the Gmail address published on the website, however the Complainant has not received any replies by the Respondent, which is considered an attempt to conceal the Respondent’s identity and another indication of bad faith by the panels.

B. Respondent

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

6. Discussion and Findings

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three elements are present:

- (i) the disputed domain names registered by the Respondent 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 names; and
- (iii) the disputed domain names have been registered and are being used 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 names. 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 for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. The Panel is satisfied that the Complainant is the owner of the trademarks SYNGENTA registered in several countries.

The disputed domain name incorporates the Complainant’s trademark SYNGENTA, with the additional term “east”, which indicates the eastern part of a specified region, town or country. In this regard, the Panel considers mere addition of the term “east” does not prevent the confusing similarity with the Complainant’s trademark, as the Complainant’s SYNGENTA trademark is recognizable within the disputed domain name. [WIPO Overview 3.0](#), section 1.8.

It is an accepted principle that generic Top-Level Domains (“gTLDs”), in this case “.com”, are to be typically disregarded in the consideration of the issue of whether a domain name is identical or confusingly similar to a Complainant’s trademark. Disregarding the gTLD “.com”, the Panel notes that the disputed domain name is confusingly similar to the Complainant’s trademark.

In the light of the above, the Panel finds that the disputed domain name is confusingly similar to the Complainant’s registered trademark and that the requirements in paragraph 4(a)(i) of the Policy are fulfilled.

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 recognized 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 names such as those enumerated in the Policy or otherwise.

The Panel notes that the Respondent does not have any registered trademarks or trade names and no license or authorization of any other kind has been given to the Respondent by the Complainant to use its registered trademark, on the contrary the Respondent uses the disputed domain name by using the Complainant’s trademark and its business name with a similar address in Kenya by offering the same products and services for sustainable agriculture as the Complainant does. The website that the disputed domain name resolves to emphasizes on the same global mission, that is the importance of sustainability, collaboration with farmers, and protection of the environment, as the Complainant’s website does and targets the same audience as the Complainant. Therefore, the Panel is of the opinion that the Respondent’s use of the disputed domain name is in a manner that creates confusion with the Complainant, its registered trademark, and its official website, which does not support a finding of rights or legitimate interests in the disputed domain name on the part of the Respondent.

As a result, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain names, and the requirements of paragraph 4(a)(ii) of the Policy are therefore fulfilled by the Complainant.

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, the Panel is satisfied with the relevant evidence filed by the Complainant showing that it owns trademark rights for SYNGENTA, which has been registered and used for many years prior to the registration of the disputed domain name.

The Panel is of the opinion that it is implausible for the Respondent to be unaware of the Complainant and its trademark when the disputed domain name was registered, and the Respondent's aim of the registration was to take an unfair advantage of the Complainant's trademark. This is because the Respondent added the term "east" after the Complainant's trademark SYNGENTA and it uses the term "SYNGENTA EAST AFRICA LIMITED", which is the Complainant's business name in Kenya, in the website that the disputed domain name resolves, that give a false impression that the disputed domain name is affiliated with or owned and used by the Complainant regarding to its business activities in East African market. The Panel is satisfied that the defaulting Respondent likely has the intention of misleading Internet users to believe that there was some affiliation or business relationship with the Complainant. This is evidenced by the use of the Complainant's trademark and business name with a similar physical address in Kenya on the website linked to the disputed domain name. Additionally, the Respondent offers the same products and services, emphasizes the same global mission and targets the same audience as the Complainant, further increasing the likelihood of confusion. The Panel is convinced that the purpose of the Respondent is to attract the Internet users by creating a likelihood of confusion with the Complainant's trademark for potential commercial gain within the meaning or paragraph 4(b)(iv) of the Policy.

Having considered all the facts in this case, the Panel finds that the Complainant has sustained its burden of proof in showing that the disputed domain name was registered and being used in bad faith.

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 <syngentaeast.com> be transferred to the Complainant.

/Ugur G. Yalçiner/

Ugur G. Yalçiner

Sole Panelist

Date: December 19, 2024