

## **ADMINISTRATIVE PANEL DECISION**

**BUNGE SA v. Atmo, ATMO Mall**

**Case No. D2025-0071**

### **1. The Parties**

The Complainant is BUNGE SA, Switzerland, represented by 101domain.com, United States of America ("United States").

The Respondent is Atmo, ATMO Mall, Hong Kong, China.

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

The disputed domain name <bungefarm.com> is registered with Dominet (HK) Limited (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on January 8, 2025. On January 9, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 10, 2025, 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 (Registrant Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 17, 2025, 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 January 23, 2025.

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 January 28, 2025. In accordance with the Rules, paragraph 5, the due date for Response was February 17, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 20, 2025.

The Center appointed Knud Wallberg as the sole panelist in this matter on February 25, 2025. 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 in the present proceedings is BUNGE SA.

The Complainant was founded over 200 years ago, in 1818, and provides agricultural products, including grains and fertilizers, to stabilize crop infrastructure across the globe with the ultimate purpose of sustaining fuel renewable energy solutions. The Complainant's company operates approximately 300 facilities in more than 40 countries with over 23,000 employees.

The Complainant is the owner of several trademark registrations worldwide for BUNGE, including International Registration No. 864636, registered on December 15, 2004, for goods and services in international classes 4, 5, 29, 30, 31, 32, 35, 36, 39 and 40, and United States registration No. 2,036,787 for the mark, registered on February 11, 1997, for goods in international class 29.

The trademark BUNGE and variations thereof are registered as domain names in a large number of generic Top-Level Domains ("gTLDs") and country-code Top-Level Domains ("ccTLDs"), including the domain name <bunge.com> and domain names such as <bungecorp.com>, <bungefinance.com> and <bungeonline.us>.

The disputed domain name was registered by the Respondent on October 16, 2024, and at the time of the filing of the Complaint it was used for a website that appeared to offer various games including a farming simulation that collects users' personal credentials for account creation and offers cryptocurrency coins, seemingly for purchase.

#### **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 that the disputed domain name is confusingly similar to the trademark BUNGE and the trade name Bunge Limited in which the Complainant has rights, as it incorporates the whole of BUNGE trademark with the addition of the generic term "farm" and the gTLD ".com".

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name since the Complainant has not licensed nor allowed the Respondent to use the "BUNGE" trademarks or trade name for any purpose. Furthermore, the Respondent is not commonly known by the disputed domain name nor is the Respondent making a legitimate non-commercial or fair or legitimate use of the disputed domain name.

The Complainant finally contends that the disputed domain name was registered and is being used in bad faith by the Respondent. Given the promotion of a farm game based on the Complainant's industry depicted on the disputed domain name combined with the Complainant's BUNGE trademark, the Respondent indisputably knew or should have known about the Complainant's established brand and respected corporate reputation when registering the disputed domain name. Furthermore, the Complainant's trademark BUNGE is a fanciful term, created as a namesake for the company's founder, Johann P. G. Bunge, and it is inconceivable that the Respondent registered the disputed domain without the Complainant's agricultural company in mind. The Respondent does thus fraudulently use the disputed domain name, [<bungefarm.com>](http://bungefarm.com), to confuse online consumers who associate the BUNGE brand with the Complainant by promoting a class of goods and services promoted under the Complainant's trademarks through an unaffiliated gaming platform.

## **B. Respondent**

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

## **6. Discussion and Findings**

According to paragraph 15(a) of the Rules the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Paragraph 4(a) of the Policy directs that a complainant must prove each of the following:

- (i) that the domain name registered by the respondent is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) that the respondent has no rights or legitimate interests in respect of the domain name; and
- (iii) that the domain name has been registered and is being used in bad faith.

Paragraph 4(a) of the Policy states that the burden of proving that all these elements are present lies with the Complainant. At the same time, in accordance with paragraph 14(b) of the Rules, if a party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under the Rules, or any request from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate.

### **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 entirety of the BUNGE mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, "farm", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 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 name such as those enumerated in the Policy or otherwise.

The Panel finds that the composition of the disputed domain name incorporating the Complainant’s trademark with a term affiliated with the Complainant’s industry, along with the content of the disputed domain name, affirms that the Respondent’s intention behind the registration of the disputed domain name was to take unfair advantage of the Complainant and its rights.

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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Given the circumstances of the case, including the nature of the Complainant’s trademark BUNGE and the way that the disputed domain name has been used, it is obvious to the Panel in the current circumstances that the Respondent registered the disputed domain name in bad faith, to intentionally attempt “to attract, for commercial gain, Internet users to the [Respondent’s] web site or other on-line location, by creating a likelihood of confusion with the [Complainant’s] mark as to the source, sponsorship, affiliation, or endorsement of the [Respondent’s] web site”.

Noting that the disputed domain names incorporate the Complainant’s trademark BUNGE; that the Respondent has not replied to the Complainant’s contentions; and that there appears to be no conceivable good faith use that could be made by the Respondent of the disputed domain name and considering all the facts and evidence of the case, the Panel finds that the requirements of paragraph 4(a)(iii) of the Policy are also fulfilled in this case.

The Panel finds that the third element of the Policy has been established.

## **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 <bungefarm.com> be transferred to the Complainant.

*/Knud Wallberg/*

**Knud Wallberg**

Sole Panelist

Date: March 11, 2025