

ADMINISTRATIVE PANEL DECISION

Syngenta Participations AG v. Host Master, Transure Enterprise Ltd
Case No. DCO2023-0106

1. The Parties

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

The Respondent is Host Master, Transure Enterprise Ltd, United States of America ("United States").

2. The Domain Name and Registrar

The disputed domain name <syngentadigitalapps.co> is registered with Above.com, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 7, 2023. On December 7, 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 (Transure Enterprise Ltd) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 13, 2023, 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 December 14, 2023.

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 December 19, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 8, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 10, 2024.

The Center appointed Angelica Lodigiani as the sole panelist in this matter on January 23, 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 company employing 30,000 people in 90 countries worldwide. The Complainant's products help to increase crop productivity, protect the environment, and improve health and quality of life. The Complainant's products include agrochemicals for crop protection as well as vegetable and flower seeds. In 2022, the Complainant generated USD 33.4 billion global sales, USD 16.3 billion in crop protection sales, and USD 4.7 billion seeds sales.

The Complainant is the owner of the trademark SYNGENTA in many jurisdictions worldwide. Among its various registrations, the Complainant is the owner of the following:

- SYNGENTA, International registration No. 732663 in classes 1, 2, 5, 7, 8, 9, 10, 16, 29, 30, 31, 32, 35, 36, 41, and 42, registered on March 8, 2000, with designations in United Kingdom, Germany, China, the Russian Federation, and Viet Nam, among many others; and

- SYNGENTA, United States registration No. 3036058, registered on December 27, 2005, and claiming a first use in commerce since December 1, 1999, in classes 1, 5, 16, 31, 35, 36, 41 and 42.

The Complainant is also the owner of many domain names including its trademark SYNGENTA, among which, <syngenta.com>, <syngentadigitalapps.com>, <syngenta.com.au>, <syngenta.fr>, <syngenta-us.com>, <syngenta.cn>, <syngenta.co>, <syngenta.co.uk>, <syngenta.de>, <syngenta.ru>, and <syngenta.vn>.

The disputed domain name was registered on September 22, 2023, and resolves to a parked page containing sponsored pay-per click ("PPC") links to mobile app development services and plant protection products. Moreover, this parked page contains the following statement "PURCHASE A DOMAIN This domain name may be for sale".

On September 29, 2023, the Complainant, through the contact form made available on the website of the disputed domain name Registrar, informed the Respondent of its earlier rights over the trademark SYNGENTA, but the Respondent did not reply.

The Respondent is located in the United States who used a privacy service provider at the time of the registration of the disputed domain name.

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 Complainant's mark SYNGENTA since it incorporates it entirely and the Complainant's mark is well recognizable within the disputed domain name. The addition of the suffix "digitalapps" to the Complainant's mark in the disputed domain name cannot undermine the confusing similarity of the disputed domain name with the Complainant's mark. The adoption of the suffix "digitalapps" has the clear purpose to confuse the public into believing that the Complainant owns and operates the disputed domain name.

The Complainant further contends that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has no affiliation with the Complainant and received no authorization from the Complainant to make use of the SYNGENTA mark, in any manner whatsoever, including as part of the disputed domain name. Moreover, the disputed domain name resolves to a PPC site with links to mobile app development services and plant protection products. This use cannot amount to a bona fide offering of goods or services, or to a noncommercial or fair use of the disputed domain name.

Finally, the Complainant maintains that the disputed domain name was registered and is being used in bad faith. The Complainant's trademark SYNGENTA enjoys strong reputation, including in the United States where the Respondent is purportedly located, and the Complainant has a strong business. Furthermore, the Complainant owns and uses a local website in the United States under the domain name <syngenta-us.com>. The Complainant is also the owner of the domain name <syngentadigitalapps.com>, which is identical to the disputed domain name but for the domain name extension. It is therefore unlikely that the Respondent was unaware of the Complainant and of its business when it registered the disputed domain name. By registering the disputed domain name, the Respondent is trading on the Complainant's reputation and the likelihood of confusion to drive traffic to an income generating PPC site. Moreover, the Complainant affirms that the disputed domain name is causing a potential damage to its business and reputation because the public could reasonably assume that the disputed domain name is an official Complainant's domain name resolving to a PPC site.

Further evidence of bad faith lies in the lack of reply to the Complainant's notification of its earlier conflicting trademark rights.

B. Respondent

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

6. Discussion and Findings

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 the trademark SYNGENTA for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. The disputed domain name consists of the trademark SYNGENTA followed by the suffix "digital apps".

Although the addition of other terms here, "digital apps", may bear on assessment of the second and third elements, the Panel finds the addition of such terms 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 mark is recognizable 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.

In light of the above, 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 notes that the Respondent is not affiliated to the Complainant and that the Complainant never authorized the Respondent to make use of its SYNGENTA mark in any manner, including as part of the disputed domain name. Moreover, the Respondent does not appear to be commonly known by the disputed domain name. The Respondent is using the disputed domain name to access a parked page containing PPC links related to the Complainant’s activities. The Respondent is probably deriving an income from each click on the sponsored links. The use of a domain name in connection with PPC links does not represent a bona fide offering, where such links capitalize on the reputation and goodwill of the Complainant’s mark or otherwise mislead Internet users, [WIPO Overview 3.0](#), section 2.9. In the instant case, the Panel notes that the Complainant has been operating for many years prior to the registration of the disputed domain name and is active in 90 countries with 30,000 employees. The Complainant’s global sales in 2022 were very consistent. All these elements lead to the conclusion that the SYNGENTA trademark enjoys reputation in its area of business. Moreover, the Panel notes that in 2017, the Complainant registered the disputed domain name <syngentadigitalapps.com>, which is identical to the disputed domain name but for the domain name extension. Furthermore, also the domain name extensions are closely similar, being in the case of the Complainant’s mark, the generic Top-Level Domain “.com”, and in the case of the disputed domain name, the country code Top-Level Domain “.co”. All these circumstances lead to the conclusion that the links appearing on the Respondent’s webpage capitalize on the reputation and goodwill of the Complainant’s mark and can mislead the Internet users looking for the Complainant, inducing them to believe that the disputed domain name belongs to the Complainant, rather than to a third party.

In light of the foregoing, 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.

In the present case, the Panel notes that the Complainant’s trademark SYNGENTA is clearly recognizable within the disputed domain name. The Complainant’s mark is certainly one that enjoys reputation in its field of business and in the jurisdictions where the Complainant’s operate, including in the United States, where the Respondent is located, and where the Complainant has been using its trademark in commerce for 25 years. Moreover, the disputed domain name is practically identical to the Complainant’s domain name <syngentadigitalapps.com>, which the Complainant detains since 2017. Accordingly, the Panel notes that

the registration of the disputed domain name did not occur by mere coincidence, but because the Respondent had clearly in mind the Complainant and its well known trademark SYNGENTA. The registration of a domain name incorporating a third party's trademark, being aware of this trademark and without rights or legitimate interests, is a registration in bad faith.

The disputed domain name resolves to a parked page containing PPC links to third party's websites offering services related to the Complainant's activity. The Respondent is probably deriving an income from each click on these links. Such use amounts to use in bad faith as it capitalizes on the Complainant's mark to attempt to attract, for commercial gain, Internet users to the Respondent's website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website. Moreover, the Panel notes that the Respondent's parked page contains the statement: "PURCHASE A DOMAIN This domain name may be for sale", thus inviting Internet users to make economic proposals for the purchase of the disputed domain name. Therefore, the Respondent is attempting to take unfair economic advantage of the reputation of the Complainant's mark also through the possible sale of the disputed domain name.

Finally, the Panel notes that the Respondent did not reply to the Complainant's notification of its earlier conflicting trademark rights, which is also evidence of bad faith.

In light of the foregoing, the Panel finds that the 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 <syngentadigitalapps.co> be transferred to the Complainant.

/Angelica Lodigiani/

Angelica Lodigiani

Sole Panelist

Date: January 30, 2024