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D. SARAVANAN
Advocate & Arbitrator
"Orient Chambers", 4th & 5th Floor,
No. 90 / 73, Armenian Street,
Chennai - 600 001.

P.S. SHANMUGA SUNDARAM
STAMP VENDOR
L. No. B4 / 109 / 88
HIGH COURT CAMPUS,
CHENNAI-600104. (TAMILNADU)

**BEFORE THE SOLE ARBITRATOR MR.D.SARAVANAN
.IN REGISTRY
(C/o. NATIONAL INTERNET EXCHANGE OF INDIA)**

Disputed Domain Name: <www.BUNGE.in>

BUNGE Limited,
(A Bermuda Corporation),
50 Main Street, 6th Floor White Plains,
NY, 10606, USA

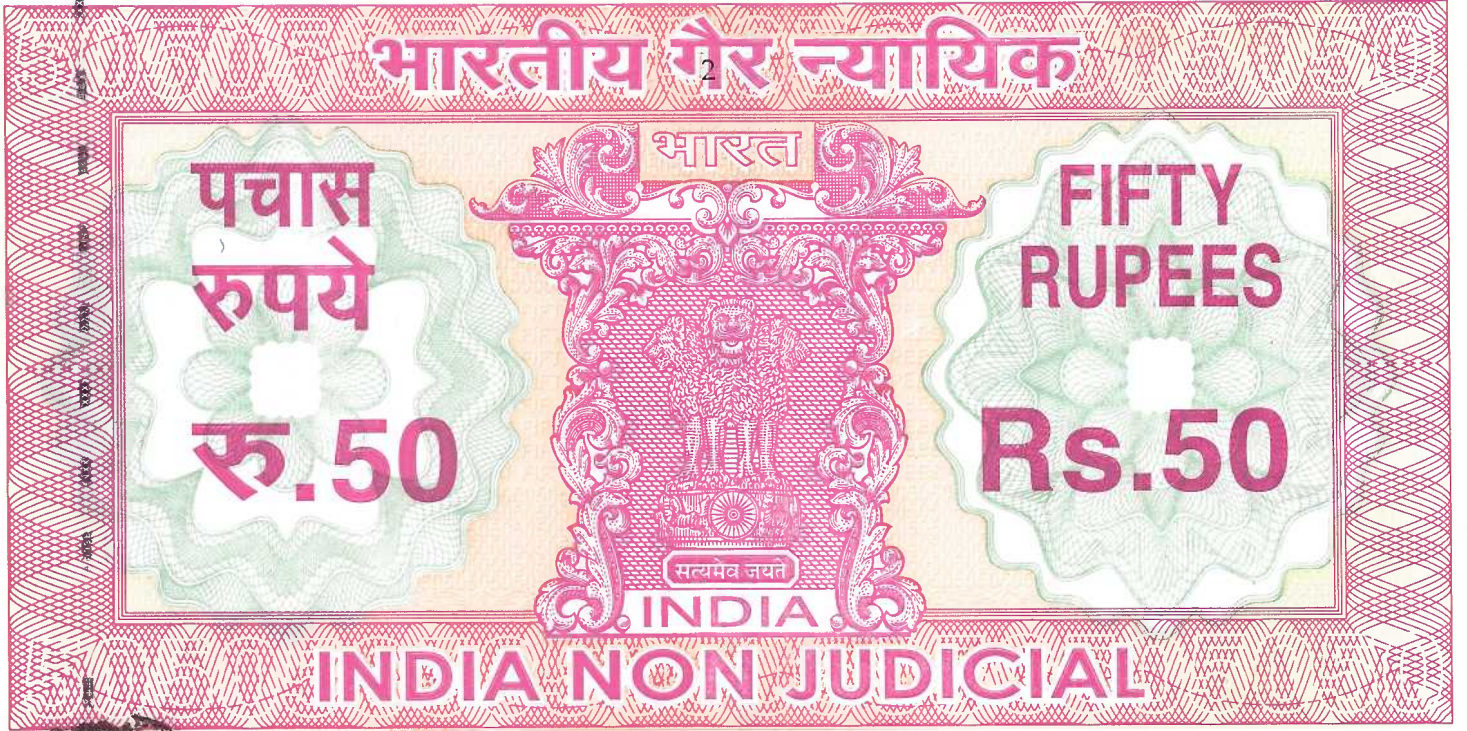
.. Complainant

Vs.

Zhaxia
Doublefist Limited
No.2, HengDaMingDu, QingJiangPu,
HuaiAn
Jiangsu 223003

.. Respondent





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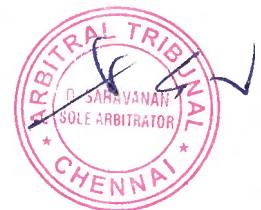
1. The Parties:

The Complainant is BUNGE Limited, (A Bermuda Corporation), 50 Main Street, 6th Floor White Plains, NY, 10606, USA represented by its representative Mr.Rahul Chaudhry, RCY House, C-235, Defence Colony, New Delhi 110 024.

The Respondent is Zhaxia, Doublefist Limited, No.2, HengDaMingDu, ingJiangPu, HuaiAn, Jiangsu 223003. The Respondent neither represented himself nor represented by any one.

2. The Domain Name and Registrar:

The disputed domain name is <www.BUNGE.in>. The domain name has been registered with .IN REGISTRY.



3. Procedural History:

March 01, 2017	:	Date of Complaint.
March 22, 2017	:	The .IN REGISTRY appointed D.SARAVANAN as Sole Arbitrator from its panel as per paragraph 5(b) of INDRP Rules of Procedure.
March 23, 2017	:	Consent of the Arbitrator was given to the .IN REGISTRY according to the INDRP Rules of Procedure along with the Statement of Declaration of impartiality and independence.
March 30, 2017	:	.IN REGISTRY sent an email to all the concerned intimating the appointment of arbitrator.
March 30, 2017	:	NIXI sent the soft copy of the complaint and annexure to the respondent marking a copy of the same to all the concerned.
April 01, 2017	:	Notice was sent to the Respondent by e-mail directing him to file his response within 10 days, marking a copy of the same to the Complainant's representative and .IN Registry.
April 11, 2017	:	Due date for filing response.
April 11, 2017	:	Notice of default was sent to the respondent notifying his failure in filing the response, a copy of which was marked to the Complainant's representative and .IN Registry.

4. Factual Background:

4.1 The Complainant:

The Complainant is BUNGE Limited, (A Bermuda Corporation), 50 Main Street, 6th Floor White Plains, NY, 10606, USA.



4.2 Complainant's Activities:

(i) The Complainant, (formerly BUNGE International, and prior to that BUNGE y Born), is a global agri business and food company, incorporated in Bermuda, and headquartered in White Plains, United States. The Complainat has a subsidiary in India – BUNGE India Private Limited which is registered under the Indian Companies Act, 1956 having its registered office at 601C & 601D, 6th Floor, The Capital C-70, G-Block, Bandra Kurla Complex, Bandra (East), Mumbai, Maharashtra 400 051.

(ii) The pre-decessor of the Complainant, BUNGE y Born was founded in the year 1818 by Johann Peter Gotlieb Bunge in Amsterdam which was relocated to Antwerp by Edouard Bounge in 1859. The pre-decessor of the Complainant was converted into the Bermuda-registered BUNGE International in the year 1994, retaining the BUNGE y Born name only in Argentina. The Complainant remained a privately held company of 180 shareholders (including the long time controlling family interests) and divested itself in the year 1998 in almost all its retail foods interests in favor of a greater role in international agri business and commodity markets. In the year 2001, the Complainant BUNGE Limited went public and began trading on the New York Stock Exchange. The Complainant has over 35,000 employees at 400 facilities in 40 countries.

(iii) The Complainant's agri business and Food Company is divided into three division. The agri business segment, which accounts for 56% of the Complainant's operating profit in 2002, is comprised of three business lines: grain origination, oilseed processing, and international marketing. The Complainant is also a leading global soybean exporter. The fertilizer division serves the South American market, primarily Brazil, where the Complainant is the only integrated fertilizer producer. Finally, the Complainant's food products division takes advantage of the raw materials-soybeans, crude vegetable oils, wheat, and corn-available through the complainant's agri business operation to engage in four business lines: edible oil products, wheat milling and bakery products, soy ingredients, and corn products.

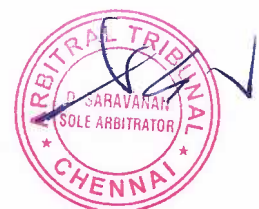


4.3 Complainant's Trading Name:

(i) The complainant states that by virtue of the extensive use, publicity and promotion, and by reason of use on products/goods of high quality, the trade mark BUNGE has acquired a reputation and goodwill of high order and is associated exclusively with the Complainant. Copies of sample of article, advertisements, brochures published and circulated discussing the popularity and recognition of the BUNGE trade mark is marked as Annexure C (colly).

(ii) The trade mark BUNGE has been registered in the name of the Complainant and related companies in many countries of the world including Mexico, South Korea, USA, Poland, Benelux, Germany, EM, Spain, Turkey, WO, Finland, Romania, Canada, Costa Rica, Angola, Switzerland, Ukraine, Brazil, Paraguay, Uruguay, Bolivia, Argentina, China, South Africa, Bolivia, Botswana, Chille, Equador, Mozambique, Namibia, Peru, Dominican Republic, Swaziland, Trinidad and Tobago, Zimbabwe. List of registrations along with few representative registration certificates are marked as Annexure D (Colly).

(iii) The Complainant also attracts users from every part of the world and have domain names containing the mark BUNGE such as bunge.fr, bunge.be, bunge.ma, bunge.com.eg, bunge.com.cy, bunge.bg, bunge.ua, bunge.com.tr, bunge.bg, bunge.ua, koninklijkebunge.nl, koninklijkebunge.com, royalbunge.nl, royalbunge.com, bunge.com.tr, bunge.bg (Cyrillic characters), bungemea.com, bungeemea.com, bunge-prio.com, bunge-prio.ro, bungepro.ua, bungepro.in.ua (Cyrillic characters), bungepro.com.ua (Cyrillic characters), bungepro.kiev.ua (Cyrillic characters), bungepro.com.ua, bungepro.kiev.ua, bungepro.net.ua, bungepro.org.ua, bungepro.in.ua, bungepro.ua (Cyrillic characters), bungepro.org, bungepro.org (Cyrillic characters), bungepro.com (Cyrillic characters), bungepro.com, bungepro.net (Cyrillic characters), bungepro.net. List of the domain names containing the mark BUNGE along with details of creation and expiry as well as website pages of the few domain names are marked as Annexure E (Colly).



(iv) That the Complainant also maintains a website having its trade mark BUNGE located at the domain name www.bunge.com since May 31, 1996 and is being currently used by the Complainant. Print out of the WHOIS status of the domain name along with website pages of domain name www.bunge.com is marked as Annexure H (Colly).

4.4 Respondent's Identity and activities:

The respondent is Zhaxia, Doublefist Limited, No.2, HengDaMingDu, QingJiangPu, HuaiAn Jiangsu 223003.

5. Dispute

The dispute arose when the respondent adopted the disputed domain name which came to the complainant's knowledge in January, 2017. The Complainant states that the Respondent has registered the identical domain name incorporating the Complainant's well-known, prior used marks 'BUNGE' in totality and identity and is identical to previously registered trade mark and domain name.

6. Parties contentions:

A. Complainant:

(i) The domain name <www.BUNGE.in> is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights:

i) The Complainant is the proprietor of the well-known trademark BUNGE worldwide. The Complainant's domain name www.bunge.com has acquired distinctiveness and is associated with the business of Complainant. The Complainant and its related companies are the proprietors of the Domain Names <bunge.fr>, <bunge.be>, <bunge.ma>, <bunge.com.eg>, <bunge.com.cy>, <bunge.bg>, <bunge.ua>, <bunge.com.tr>, <bunge.bg>, <bunge.ua>, <koninklijkebunge.nl>, <koninklijkebunge.com>, <royalbunge.nl>, <royalbunge.com>, <bunge.com.tr>,



<bunge.bg> (Cyrillic characters), <bungemea.com>, <bungeemea.com>, <bunge-prio.com>, <bunge-prio.ro>, <bungepro.ua>, <bungepro.in.ua> (Cyrillic characters), <bungepro.com.ua> (Cyrillic characters), <bungepro.kiev.ua> (Cyrillic characters), <bungepro.com.ua>, <bungepro.kiev.ua>, <bungepro.net.ua>, <bungepro.org.ua>, <bungepro.in.ua>, <bungepro.ua> (Cyrillic characters), <bungepro.org>, <bungepro.org> (Cyrillic characters), <bungepro.com> (Cyrillic characters), <bungepro.com>, <bungepro.net> (Cyrillic characters), <bungepro.net> among others. The Respondent's domain name <bunge.in> is identical to the Complainant's BUNGE mark, as the Respondent's domain name incorporates Complainant's well-known mark in its entirety.

ii) Given the enormous global reputation and goodwill enjoyed by the Complainant, it is apparent that the Respondent has fraudulently acquired the Domain Name <bunge.in>, which is the identical to Complainant's BUNGE trademark and is deceptively similar to the trading name/corporate name of the Complainant solely with a intention of diverting the consumers to their website and pass their goods and/or services as and for the goods of the Complainants.

(ii) The Respondent has no rights or legitimate interest in the domain name <www.BUNGE.in>:

i. The Respondent neither has any legitimate interest in the mark BUNGE nor is the lawful owner of any right relating to the Complainant's aforesaid marks. The Respondent bears no relationship to the business of Complainant and is neither a licensee nor has obtained authorization of any kind whatsoever to use the Complainant's marks.

ii. The Respondent has neither been using the said domain name or any name corresponding to the same in relation to any goods or services, to the best of the Complainant's knowledge, nor has he been commonly known by the domain name, which in fact corresponds and is associated exclusively with the Complainant.



iii. The Complainant's domain name www.bunge.com was created on May 31, 1996, whereas the Respondent's domain name www.bunge.in was created on July 21, 2013 which is almost seventeen years after the Complainant had commenced the use of the domain name www.bunge.com. The Complainant being the prior user of the registered and well-known trademark BUNGE is the lawful owner of the said trade mark and the Respondent does not have any legitimate interest in the impugned domain name which copies in entirety the trade mark/ domain name of the Complainant.

iv. The Respondent is making an illegitimate and commercial use of the domain name www.bunge.in by diverting Complainant's consumers to its websites in order to tarnish the well-known trademark of the Complainant. It is apparent that the use of a domain name identical to that of the Complainant's domain name and trademarks is clearly an attempt to create confusion and illegally profit from the resulting association between the Complainant and the Respondent's impugned domain name. The said manner of use of the website is clearly commercial.

v. It is submitted that the Complainant has established, through evidence of long and uninterrupted use of the trademark BUNGE and the long duration and widespread use of the domain name www.bunge.com that in fact it is the Complainant who is legitimately entitled to the domain name and that the Respondent does not have any right in relation thereto.

(iii) The domain name was registered and is being used by the Respondent in bad faith:

i. The circumstances indicate that the Respondent has registered or acquired the Domain Name with dishonest intention to mislead and divert the consumers and to tarnish the well-known trade mark/ corporate name BUNGE of the Complainant.

ii. Respondent has registered and is using the Domain Name in bad faith for commercial gain and to benefit from the goodwill and fame associated with Complainant's BUNGE marks, and from the likelihood that Internet users will



mistakenly believe the Domain Name and its associated website are connected with Complainant.

iii. The Respondent has registered and is using the Domain Name primarily for the purpose of disrupting the business of the Complainant.

iv. The Respondent has no prior right in and no authorization to use given by the Complainant concerning the BUNGE trademark.

v. The Respondent uses the Domain Name www.bunge.in to operate links that provide links to website promoting products, services and websites of the Complainant as well as the competitors to the Complainant.

vi. Respondent is thus not using the Domain Name for legitimate personal or business purposes. Instead, it is apparent that the intention of the Respondent is to sell the Domain Name thereby indicating that Respondent has intentionally registered the Domain Name only for the purpose of selling the Domain Name at a profit.

vii. Upon information and belief, particularly considering the international fame of Complainant's trademark, including in India, Complainant asserts that Respondent intentionally registered domain name that is identical to the Complainant's BUNGE trademark in order to trade off of the goodwill associated with Complainant's marks, and to hold the Domain Names simply for the purpose of selling it for profit – either to Complainant – or to third parties if Complainant would not agree to pay the excessive price set by Respondent.

viii. The circumstances indicate that the Respondent has registered or acquired the domain name with dishonest intention to mislead and divert the consumers and to tarnish the well-known trade mark BUNGE as well as domain name www.bunge.com of the Complainant.



ix. The Respondent has registered and is using the domain name in bad faith for commercial gain and to benefit from the goodwill and fame associated with the Complainant's BUNGE mark and from the likelihood that internet users will mistakenly believe that the impugned domain name is connected to the Complainant and its goods / services. The Respondent has registered the domain name only with a purpose to divert the internet traffic from the Complainant's website by using their trade mark/trade name and earn by pay per click sponsored advertisements.

x. The Respondent has registered and is using the impugned Domain Name primarily for the purpose of disrupting the business of the Complainant and has no prior right in and no authorization to use given by the Complainant concerning the BUNGE trademark.

xi. A consumer searching for information concerning Complainant is likely to be confused as to whether the Respondent is connected, affiliated or associated with or sponsored or endorsed by Complainant.

xii. As such, the manner of use of the domain name www.bunge.in by the Respondent is a clear example of cyber-squatting.

xiii. The Respondent has also made fraudulent and incorrect claims while registering the impugned domain name since all registrants are required to warrant at the time of registering the domain name, under Paragraph 3(b) of the INDRP that, "to the Registrant's knowledge, the registration of the domain name will not infringe upon or otherwise violate the rights of any third party" and under Paragraph 3(d) that, "the Registrant will not knowingly use the domain name in violation of any applicable laws or regulations".

B. Respondent:

The Respondent, in spite of notice dated 01.04.2017 and default notice dated 11.04.2017 did not submit any response.



6. Discussion and Findings:

It has to be asserted as to whether the Constitution of Arbitral Tribunal was proper and whether the Respondent has received the notice of this Arbitral Tribunal?

Having gone through the procedural history, this Tribunal comes to the irresistible conclusion that the Arbitral Tribunal was properly constituted and Respondent has been notified of the complaint of the Complainant. However, the Respondent did not choose to submit any response and that non-submission of the Response by the Respondent had also been notified to the Respondent on 11.04.2017.

Under paragraph 4 of the IN Domain Name Dispute Resolution Policy (INDRP), the Complainant must prove each of the following three elements of its case:

- (i) The Respondent's domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) The Respondent has no rights or legitimate interest in respect of the domain name; and
- (iii) The Respondent's domain name has been registered or are being used in bad faith.

(a) Identical or confusing similarity:

- i) The Arbitral Tribunal finds that the Complainant has provided evidences that it possesses registered trademark "BUNGE" around the world, including the domain names. The Tribunal finds that the business product of the complainant under the trademark "BUNGE" and the disputed domain are exactly identical in its entirety. Thus, this Arbitral Tribunal finds that the disputed domain name <www.BUNGE.in> is identical to the Complainant's mark.



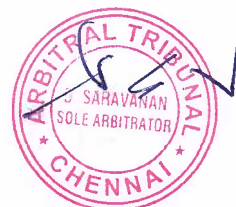
ii) The Arbitral Tribunal concludes that the Complainant has established paragraph 4(i) of the IN Domain Name Dispute Resolution Policy.

(b) Respondent's Rights or Legitimate Interests:

i) The Complainant contends that the Respondent has no legitimate interest in the disputed domain name. Paragraph 7 of the IN Dispute Resolution Policy sets out three elements, any of which shall demonstrate the Respondent's rights or legitimate interests in the disputed domain name for the purposes of paragraph 4(ii) of the Policy. The Respondent had been given the opportunity to respond and to present evidence in support of the elements in paragraph 7 of the INDRP. The Respondent has not chosen to do so and has not filed any response in these proceedings to establish any circumstances that could assist it in demonstrating, any rights or legitimate interests in the disputed domain name. Although, the Complainant is not entitled to relief simply by default of the Respondent to submit a Response, the Arbitral Tribunal can however and does draw evidentiary inferences from the failure of the Respondent to respond. It is also found that the respondent has no connection with the mark "BUNGE". The Respondent has failed to rebut the presumption of absence of rights or legitimate interests.

ii) Based on the record, the Respondent does not have rights or legitimate interests in the disputed domain name as the Respondent's current use is neither an example of a bona fide offering of goods or services as required under paragraph 7(i) of the Policy nor is there any legitimate non-commercial or fair use of the disputed domain name and as such there is no evidence that paragraphs 7(ii) or 7(iii) of the Policy apply. The Complainant asserts that they have not licensed or otherwise authorized the Respondent to use their trademark.

iii) The Arbitral Tribunal is satisfied that the Respondent has no rights or legitimate interests in respect of the disputed domain name and, accordingly paragraph 4(ii) of the Policy is satisfied.



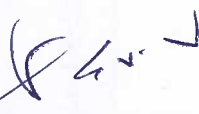
(c) Registration and Use in Bad faith:

i) This Arbitral Tribunal draws the legal inference that Respondent's purpose of registering the domain name was in bad faith within the meaning of the Policy. The Respondent has no legitimate rights or interests in the disputed domain name and there was a malafide intent for registering the disputed domain name other than for commercial gains, and that the intention of the Respondent was simply to generate revenue, either by using the domain name for its own commercial purpose or through the sale of the disputed domain name to a competitor or any other person that has the potential to cause damage to the ability of the Complainant to have peaceful usage of the Complainant's legitimate interest in using their own trade names.

ii) In the light of the above, this Arbitral Tribunal finds that the Complainant has established that the disputed domain name was registered and is being used in bad faith.

7. Decision:

For all the foregoing reasons, in accordance with paragraph 10 of the Policy, the Arbitral Tribunal orders that the disputed domain name **<www.BUNGE.in>** be transferred to the Complainant.



D.SARAVANAN
Sole Arbitrator
April 24, 2017
Chennai, INDIA.