

ADMINISTRATIVE PANEL DECISION

Umicore v. Privacy service provided by Withheld for Privacy ehf / Logon Logan
Case No. D2022-1614

1. The Parties

The Complainant is Umicore, Belgium, represented by Gevers Legal N.V., Belgium.

The Respondent is Privacy service provided by Withheld for Privacy ehf, Iceland / Logon Logan, United States of America.

2. The Domain Name and Registrar

The disputed domain name <am-umicore.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 May 4, 2022. On May 4, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 4, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details for the disputed domain name.

The Center verified that 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 May 19, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 8, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 10, 2022.

The Center appointed Alvaro Loureiro Oliveira as the sole panelist in this matter on June 27, 2022. 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 the Belgian company Umicore, a global materials technology and recycling group, with more than 10,000 employees worldwide. The Complainant operates its R&D efforts to clean technologies, such as emission control catalysts, materials for rechargeable batteries and recycling. The Complainant is present across Europe, North America, Asia, and Africa.

The Complainant owns registrations for its mark UMICORE in over 100 countries worldwide, including International Trademark Registration No. 775794, registered on January 22, 2002. The Complainant also claims ownership over the trade name UMICORE, derived from the company's name. A proof of the trademark registrations, as well as an extract of the Belgian Companies Register was attached to the Complaint as Annex 3.

The disputed domain name was registered on May 21, 2021. The disputed domain name does not resolve to an active website.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to the Complainant's mark registered and used worldwide. In fact, the only distinctive word integrating the disputed domain name is "umicore", which is identical to the Complainant's registered mark.

The expression chosen by the Respondent to compose the disputed domain name together with "umicore" is the letters "am", which is the common abbreviation for "before midday". The abbreviation does not negate the confusing similarity between the disputed domain name and the Complainant's trademark. On the contrary, it leads to confusion, given the presence of the Complainant's mark.

The Complainant owns several registrations worldwide for trademark UMICORE, as well as the rights over the trade name, as evidenced by annex 3 to the Complaint.

The disputed domain name registered by the Respondent – a reproduction of the Complainant's registered mark associated with descriptive abbreviation – shows a clear intention of misleading the Internet users.

B. Respondent

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

6. Discussion and Findings

The Policy, in its paragraph 4(a), determines that three elements must be present and duly proven by a complainant to obtain relief. These elements are:

- i. The disputed domain name 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 to the disputed domain name; and
- iii. The disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

Regarding the first of the elements, the Panel is satisfied that the Complainant has presented adequate proof of having rights in the mark UMICORE, registered throughout the world. In addition, the Complainant has been providing a full range of technology and recycling services under the UMICORE worldwide.

One should also note that UMICORE is not a dictionary word, but rather a fanciful and invented sign which distinctive character has been enhanced significantly throughout the years by the extensive use and promotion in relation to the Complainant.

Further, the Panel finds that the disputed domain name is indeed confusingly similar to the trademark belonging to the Complainant, since this mark is entirely reproduced in the disputed domain name together with the addition of the abbreviation “am”, which does not prevent confusing similarity. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.8.

Hence, the Panel concludes that the first of the elements in the Policy has been satisfied by the Complainant in this dispute.

B. Rights or Legitimate Interests

Given the clear evidence that the trademark UMICORE is registered in the Complainant’s name and is widely known as identifying the Complainant’s activities, and that the Complainant has not licensed this to the Respondent, the Panel finds that the Complainant has established *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name. In the absence of a Response, the Respondent has not rebutted such *prima facie* case.

The Respondent is not using the disputed domain name for a *bona fide* offering of goods or services, nor for a legitimate noncommercial or fair use of the disputed domain name - the Respondent is not making any direct use of the disputed domain name, but merely using it as a parking space. Moreover, the disputed domain name carries a risk of implied affiliation. See section 2.5.1 of the [WIPO Overview 3.0](#).

The Panel, thus, finds for the Complainant under the second element of the Policy.

C. Registered and Used in Bad Faith

Given the circumstances of this case, the facts outlined in sections A and B above can also evidence the Respondent’s bad faith in the registration and use of the disputed domain name.

The Panel finds that the Respondent has probably registered the disputed domain name with the purpose of taking unfair advantage of the Complainant’s mark. The disputed domain name reproduces the Complainant’s mark UMICORE in its entirety, with the addition of the term “am”.

The composition of the disputed domain name points towards the Respondent’s likely intent to give an impression that the disputed domain name is associated with the Complainant. In the absence of any reasonable explanation for the selection of the disputed domain name by the Respondent, and in the circumstances of this case, the Panel finds that, it is more likely than not, that the disputed domain name has been registered to take advantage of the distinctive trademark owned by the Complainant.

The current passive holding of the disputed domain name does not prevent a finding of bad faith in light of the circumstances of the proceeding. Previous UDRP panels have found that the apparent lack of so-called active use of the domain name without any active attempt to sell or to contact the trademark holder does not prevent a finding of bad faith. See, e.g., *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#); *Redcats S.A. And La Redoute S.A. v. Tumay Asena*, WIPO Case No. [D2001-0859](#); and *DCI S.A. v. Link Commercial Corporation*, WIPO Case No. [D2000-1232](#).

In conclusion, the Panel notes the distinctive and well-known nature of the Complainant's trademark UMICORE, the failure of the Respondent to submit a Response, and the implausibility of any good faith use to which the disputed domain name may be put, support a finding of 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, <am-umicore.com>, be transferred to the Complainant.

/Alvaro Loureiro Oliveira/

Alvaro Loureiro Oliveira

Sole Panelist

Date: July 11, 2022