

## **ADMINISTRATIVE PANEL DECISION**

Umicore v. Qin Xian Sheng  
Case No. D2022-1615

### **1. The Parties**

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

The Respondent is Qin Xian Sheng, Singapore.

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

The disputed domain name <umicor.com> is registered with Key-Systems GmbH (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 5, 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.

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 proceeding 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 14, 2022.

The Center appointed Sebastian M.W. Hughes as the sole panelist in this matter on June 30, 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**

### **A. Complainant**

The Complainant is a company incorporated in Belgium. The Complainant operates a global materials technology and recycling group under the trade mark UMICORE (the “Trade Mark”), with more than 10,000 employees and a turnover of EUR 10.4 billion.

The Complainant is the owner of numerous registrations for the Trade Mark in jurisdictions worldwide, including International registration No. 775794, with a registration date of January 22, 2002, designating *inter alia* China. The Complainant’s affiliated company also owns the International registration No. 1620842 UMICOR, with a registration date of September 6, 2021.

The Complainant promotes and provides its goods and services via its website at “www.umicore.com”.

### **B. Respondent**

The Respondent is apparently an individual resident in Singapore.

### **C. The Disputed Domain Name**

The disputed domain name was registered on July 8, 2021.

### **D. Use of the Disputed Domain Name**

According to the Complaint, the disputed domain name did not resolve to any active website. At the time of this decision, the disputed domain name is resolved to a Chinese language website with links to sports entertainment, gaming, and gambling related websites operated by 爱游戏 (“Ai You Xi”) and 亚博体育 (“Ya Bo Ti Yu”) (the “Website”).

## **5. Parties’ Contentions**

### **A. Complainant**

The Complainant contends that the disputed domain name is identical or confusingly similar to the Trade Mark; the Respondent has no rights or legitimate interests in respect of the disputed domain name; and the disputed domain name has been registered and is being used in bad faith.

### **B. Respondent**

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

## **6. Discussion and Findings**

The Complainant must prove each of the three elements in paragraph 4(a) of the Policy in order to prevail.

### **A. Identical or Confusingly Similar**

The Panel finds that the Complainant has rights in the Trade Mark acquired through use and registration.

The disputed domain name consists of a common, obvious, or intentional misspelling of the Trade Mark (by omitting the letter “e” from the end of the Trade Mark) (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 1.9).

The Panel therefore finds that the disputed domain name is confusingly similar to the Trade Mark.

## **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy provides a list of non-exhaustive circumstances any of which is sufficient to demonstrate that a respondent has rights or legitimate interests in a disputed domain name:

- (i) before any notice to the respondent of the dispute, the respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent (as an individual, business, or other organization) has been commonly known by the disputed domain name even if the respondent has acquired no trade mark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark or service mark at issue.

The Complainant has not authorised, licensed, or permitted the Respondent to register or use the disputed domain name or to use the Trade Mark. The Panel finds on the record that there is therefore a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name, and the burden is thus on the Respondent to produce evidence to rebut this presumption.

The Respondent has failed to show that he has acquired any trade mark rights in respect of the disputed domain name or that the disputed domain name has been used in connection with a *bona fide* offering of goods or services. To the contrary, the disputed domain name previously resolved to an inactive website, and currently resolves, for commercial gain, to the Website, containing links to sports entertainment, gaming, and gambling related websites.

There has been no evidence adduced to show that the Respondent has been commonly known by the disputed domain name; and there has been no evidence adduced to show that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name.

The Panel finds that the Respondent has failed to produce any evidence to rebut the Complainant's *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Panel therefore finds that the Respondent lacks rights or legitimate interests in the disputed domain name.

## **C. Registered and Used in Bad Faith**

Given the notoriety of the Complainant and of its Trade Mark; the distinctiveness of the Trade Mark; and the manner of the Respondent's current use of the disputed domain name referred to above; the Panel finds, in all the circumstances, that the requisite element of bad faith has been made out pursuant to paragraph 4(b)(iv) of the Policy. Although the disputed domain name was not in use at the time of filing of the Complaint, the Panel finds that under the circumstances of this case, the previous non-use of the disputed domain name does not prevent a finding of bad faith under the doctrine of passive holding. See [WIPO Overview 3.0](#), section 3.3.

The evidence suggests that the Respondent has targeted the Complainant in registering and using the disputed domain name; and that there cannot be any actual or contemplated good faith use of the disputed domain name by the Respondent.

For all the foregoing reasons, the Panel concludes that the disputed domain name has been registered and is 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 <umicor.com> be transferred to the Complainant.

*/Sebastian M.W. Hughes/*

**Sebastian M.W. Hughes**

Sole Panelist

Dated: July 14, 2022