

## **ADMINISTRATIVE PANEL DECISION**

Univar Solutions Inc. v. Tristan Jansen  
Case No. D2023-2347

### **1. The Parties**

The Complainant is Univar Solutions Inc., United States of America (“United States”), represented by SafeNames Ltd., United Kingdom.

The Respondent is Tristan Jansen, Netherlands.

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

The disputed domain name <univarsolutions.store> 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 31, 2023. On May 31, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 2, 2023, 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 proceedings commenced on June 7, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 27, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 29, 2023. The Center received email communications from the Respondent on June 30 and July 3, 2023.

The Center appointed Selma Ünlü as the sole panelist in this matter on July 10, 2023. 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

Given that no substantive Response was filed, the following facts are based on the submissions in the Complaint and the Annexes to the Complaint.

The Complainant, Univar Solutions, Inc., is a global chemical and ingredient distribution company founded in 1924, operating across different industries such as aerospace, agriculture, and energy. The Complainant provides its services globally in many locations within the United States, Canada, Latin America, Asia, and Europe. The Complainant was originally known as Van Waters & Rogers, named after its founders, later changed its name to VWR United Company following a merger with United Pacific then later changed to Univar, Inc. in 1970. However, recently, the Complainant changed its name again to Univar Solutions, Inc. following the merger with Nexeo Solutions in 2019.

The Complainant is the owner of several trademarks for UNIVAR. The Complainant's trademarks including the term UNIVAR are, *inter alia*, the following:

- United States trademark UNIVAR No. 1724817, registered on October 20, 1992
- China trademark UNIVAR No. 3233858, registered on September 21, 2003
- European Union trademark UNIVAR No. 002717809, registered on October 7, 2005
- Malaysia trademark UNIVAR No. 03006946, registered on June 10, 2003

The Complainant is also the owner of several domain names incorporating its UNIVAR trademark, such as <univarsolutions.com>, <univar.ee>, <univarsolutions.org> and <univarsolutions.shop>.

The disputed domain name was registered on June 3, 2021. The disputed domain name resolves to a parking page.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant states that it is the owner of the distinctive UNIVAR trademarks, and the business with these trademarks was well established at the time of the registration of the disputed domain name. The disputed domain name is claimed to be confusingly similar to the Complainant's trademarks, because it incorporates the UNIVAR trademark in its entirety. It is also noted that the mere addition of the word "solutions" is not enough to distinguish the disputed domain name from the trademark UNIVAR, since it has clear connotations to the Complainant as a distributor of chemical products and solutions, it only serves to increase likelihood of confusion. Also, the addition of the standard registration requirement of generic Top-Level Domain ("gTLD") ".store" is not significant in determining whether the disputed domain name is identical or confusingly similar to the trademarks of the Complainant.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name, since the Respondent does not have any registered or unregistered trademark rights to the term "univar" or "univarsolutions". The Complainant also submits that the Respondent has not used, nor prepared to use the disputed domain name in connection with a *bona fide* offering of goods or services. The Respondent replied to the Complainant's cease and desist letter and attempted to sell the disputed domain name for a so-called decent price, which cannot be considered a *bona fide* use of the disputed domain name, since the disputed domain name contains a well-known mark and is offered for sale likely in excess of its registration and maintenance costs. Also, the Complainant asserts that the disputed domain name currently not resolving to an active website or webpage by passive holding does not constitute a *bona fide* offering of goods or services. To the best of the Complainant's knowledge, the Respondent is not commonly known by the disputed domain name. Therefore, it is claimed that there is no plausible reason for the registration and use of the disputed domain name, other than the motive of taking advantage of the goodwill and reputation attached to the UNIVAR mark by the Complainant. Additionally, the Complainant asserts that

the Respondent's current use of passive holding does not confer a legitimate noncommercial or fair use of the disputed domain name.

Regarding bad faith, the Complainant submits that the Complainant and its trademarks were well reputed and predated, and contends that it is clear the Respondent knew or should have known about the existence of the earlier UNIVAR trademarks. Furthermore, the Complainant submits that a cease and desist letter was sent to the Respondent via email on May 12, 2022. The Complainant states that such letter was sent in order to put the Respondent on notice of the Complainant's trademarks and rights and with a view to resolving the matter amicably. The Respondent replies by stating that not registering the disputed domain name was not very clever by the Complainant and that now he has the registration but he can sell the disputed domain name to the Complainant in exchange for a decent price. While the Complainant said it replied to the Respondent's contentions and reiterated the rights held under the UNIVAR mark and "Univar Solutions" term, the Respondent failed to provide a subsequent response. Moreover, the Complainant states that the Respondent did not refute knowledge of the Complainant's existence and failed to establish any rights or legitimate interests in the disputed domain name. Hence, the Complainant submits that the Respondent has clearly registered the disputed domain name in bad faith, with the primary intention of taking advantage of the Complainant's trademark and gain unfair advantage. The Complainant contends that both offering a domain name for sale and its passive use indicates use in bad faith. Consequently, the Complainant is of the opinion that the disputed domain name is registered and used in bad faith.

## **B. Respondent**

The Center received informal email communications from the Respondent on June 30 and July 3, 2023.

In the email dated June 30, 2023, the Respondent stated: "Your email did surprise me, because i did not get any email or indication of this case. Would you be so kind to send me the first email? Because I don't know anything about this case at all. Already thank you for this. I will respond to the first email a.s.a.p."

In the email dated July 3, 2023, the Respondent stated: "Again I did not receive any email regarding this case. Also not on the 30th of June 2023. Please send me this email again that I can see what this is about".

## **6. Discussion and Findings**

The Complainant must prove that the three elements of paragraph 4(a) of the Policy have been met for the disputed domain name, namely:

- (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 of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

Since the Respondent did not object to any of the contentions from the Complainant by not submitting a Response, the Panel will decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable and on the basis of the Complaint and supporting Annexes.

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

In light of the explanations and evidence provided by the Complainant, the Panel is satisfied that the Complainant has valid trademark rights in the UNIVAR trademark, which is reproduced in its entirety in the disputed domain name. Additionally, the Panel considers that the addition of the term "solutions" does not prevent a finding of confusing similarity.

Furthermore, the addition of the gTLD “.store” does not prevent a finding of confusing similarity, since it is merely a technical registration requirement to be disregarded typically.

Consequently, the Panel finds that the disputed domain name is confusingly similar to the Complainant’s trademark and the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

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

Paragraph 4(c) of the Policy lists non-exhaustively the relevant circumstances that could show the Respondent’s rights or legitimate interests in a domain name, as follows:

“Any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate [the respondent’s] rights or legitimate interests to the domain name for purposes of paragraph 4(a)(ii):

(i) before any notice to [the respondent] of the dispute, [the respondent’s] use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or

(ii) [the respondent] (as an individual, business, or other organization) ha[s] been commonly known by the domain name, even if [the respondent] ha[s] acquired no trademark or service mark rights; or

(iii) [the respondent] is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.”

The Panel notes that the Respondent has not filed a Response, and therefore, neither denied the Complainant’s claims, nor brought any information or evidence to prove any rights or legitimate interests.

The Complainant has made a *prima facie* showing that the Respondent does not have any rights or legitimate interests in the disputed domain name. Further, there is no evidence of 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 within the meaning of paragraph 4(c)(i) of the Policy. It can be seen from the Annex 15 that the Complainant received a response to its cease and desist letter including the request of transfer of the disputed domain name to the Complainant and instead, the Respondent offered to sell the disputed domain name to the Complainant. The Respondent’s use of the disputed domain name to offer it for sale to the trademark owner cannot be considered *bona fide* under the Policy.

The Complainant’s registration and use of the UNIVAR trademark predates the registration of the disputed domain name. Since the Complainant made out a *prima facie* case, the burden of production shifts to the Respondent to establish its rights or interests in the disputed domain name. The Respondent, however, has not sought to rebut that *prima facie* case. While the Respondent contends a lack of notice, the Panel notes that the email from which the Respondent sent its informal communications from, and from which it responded to the Complainant’s cease and desist letters, was the email used by the Center for purposes of notification of the Complaint. Accordingly, the Respondent’s antics seem more likely than not an attempt to unduly delay and frustrate these proceedings, reinforcing the Panel’s findings that the Respondent has no rights or legitimate interests in the disputed domain name.

In light of the Complainant’s assertions and evidence, the Panel finds that the Complainant has met the requirement under the Policy of *prima facie* showing that the Respondent does not have any rights or legitimate interests in the disputed domain name. Accordingly, the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

### C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy lists certain relevant non-exhaustive circumstances, which can be considered as the registration and use of a domain name in bad faith, namely:

“(i) circumstances indicating that [the respondent has] registered or acquired [a disputed] domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of [the respondent’s] documented out-of-pocket costs directly related to the domain name; or

(ii) [the respondent has] registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that [the respondent has] engaged in a pattern of such conduct; or

(iii) [the respondent has] registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent’s] website 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] website or location or of a product or service on [the respondent’s] website or location.”

The Panel must decide by examining all relevant circumstances of each case in question. It is possible that cumulative conditions lead to the finding of bad faith, such as the Complainant’s trademark being well-known, no response submitted to the Complaint, and offering the disputed domain name for sale to the Complainant.

The disputed domain name incorporates the exact distinctive UNIVAR trademark of the Complainant, and also comprises of the Complainant’s trade name “Univar Solutions, Inc.” (albeit without the corporate identifier) as of 2019, which is earlier than the registration of the disputed domain name and cannot be considered as a coincidence. The Complainant has provided that the UNIVAR trademark is well known, therefore, the fact that the Respondent decided to register the disputed domain name including this term in its entirety strongly suggests that the Respondent has taken the Complainant’s well-known UNIVAR trademark into account and targeted it specifically in order to gain unfair advantage, especially when considering the Respondent actually offered the disputed domain name for sale to the Complainant after receiving a cease and desist letter.

The Panel considers that the disputed domain name falls under the circumstance (i) of the paragraph 4(b) of the Policy, namely, “circumstances indicating that [the respondent has] registered or acquired [a disputed] domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of [the respondent’s] documented out-of-pocket costs directly related to the domain name”, considering that both the disputed domain name resolves to a parking page and it was actually offered for sale to the Complainant.

Consequently, given the explanations in the Complaint and the evidence provided by the Complainant, the Panel decides that the third requirement is also met and both the registration and the use of the disputed domain name are 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 <univarsolutions.store> be transferred to the Complainant.

*/Selma Ünlü/*

**Selma Ünlü**

Sole Panelist

Date: July 24, 2023