

ADMINISTRATIVE PANEL DECISION

Univar Solutions Inc. v. SIMON LUBWAMA
Case No. D2023-2611

1. The Parties

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

The Respondent is SIMON LUBWAMA, Uganda.

2. The Domain Name and Registrar

The disputed domain name <univarsolutions.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 June 16, 2023. On June 19, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 19, 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 (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 12, 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 July 17, 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 July 19, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 8, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 18, 2023.

The Center appointed Iris Quadrio as the sole panelist in this matter on September 1, 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

The Complainant Univar Solutions Inc., is a US company that has been doing business since 1924 and is engaged in the distribution of ingredients and chemicals across a number of varied industries such as aerospace, agriculture, beauty and personal care and chemical manufacturing.

It is worth mentioning that the Complainant was originally known as “*Van Waters & Rogers*” due to its founders’ names, George Van Waters and Nat Rogers. Later, in 1966, after a merger with United Pacific Corporation, it became VWR United Company. Following a rebranding process in the early 1970s it was then renamed “Univar”, which was changed to “Univar Solutions” in 2019, after a merger with Nexeo Solutions.

Currently, the Complainant provides services globally within the United States, Canada, Latin America, Asia and Europe and operates online from “www.univarsolutions.com”, where the Complainant asserts to have an average of more than 100,000 visits per month between March- May 2023, and through social media (such as Facebook, LinkedIn and Twitter).

At the same time, the Complainant claims to be a publicly traded company on the New York Stock Exchange, ranked No. 369 on the 2022 Fortune 500 list and to have made a revenue of more than USD 11 billion in 2022.

Moreover, the Complainant alleges to have developed a widespread consumer goodwill and recognition in the market under the UNIVAR trademark through decades of use. Nowadays, the Complainant is the owner of the trademark UNIVAR in many jurisdictions, including United States Registration No. 1724817 issued on October 20, 1992 in cl. 1, 3, 4, 5, 39 and 42 and Registration No. 3646062 issued on June 30, 2009 in cl. 2 and 5, China Registration No. 3233858 issued on 21 September 2003 in cl.4, Registration No. 3233859 in cl. 3 issued on May 14, 2004 and Registration 3233860 in cl. 2 issued on February 7, 2004, European Union (EUIPO) Registration No. 002717809 issued on October 7, 2005 in cl. 1-5, 7-9, 35, 39, 40 and 42, Malaysia Registration No. 03006946 issued on June 10, 2003 in cl. 3. The Panel has confirmed that the referred registrations have been timely renewed.

Also, the Complainant and its subsidiaries have registered many domain names including the trademark UNIVAR and the “Univar Solutions” name, such as <univar.com.ua>, <univar.ee>, <univarsolutions.net>, <univarsolutions.org>, <univarsolutions.shop> and <univarsolutions.com.br>.

The disputed domain name <univarsolutions.com> was registered on February 22, 2023, and resolves in a DNS failure “503 service unavailable”. However, the Complainant provided evidence demonstrating that the disputed domain name previously resolved to the Complainant’s official website “www.univarsolutions.com”. Considering that the Respondent did not file any objection to such evidence, this Panel will consider them as valid proof.

5. Parties’ Contentions

A. Complainant

The Complainant claims that the disputed domain name is identical or confusingly similar to its trademark UNIVAR on which the Complainant has prior rights.

The Complainant claims that the Respondent is not affiliated with the Complainant in any way. Neither license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark UNIVAR or apply for registration of the disputed domain name.

More specifically, the Complainant alleged that the Respondent has not used and/or has no demonstrable intention to use the disputed domain name except to create a likelihood of confusion with the Complainant's trademark. In fact, the Complainant claims that the Respondent has selected the disputed domain name only to intentionally lead Internet users to believe they are accessing the Complainant's website.

Finally, the Complainant has requested the Panel to issue a decision ordering the transfer of the disputed domain name to the Complainant.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain name, the Complainant must prove each of the following, namely that:

- (i) the disputed domain name is identical or confusingly similar with 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 was registered and is being used in bad faith.

A. Identical or Confusingly Similar

As set forth in Section 1.7 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") the standing test for confusing similarity involves a reasoned but relatively straightforward comparison between the trademark and the disputed domain name to determine whether the disputed domain name is confusingly similar with the trademark. The test involves a side-by-side comparison of the disputed domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.

The Panel considers that the Complainant's UNIVAR trademark is recognizable in the disputed domain name <univarsolutions.com>.

Moreover, the ".com" generic Top-Level Domain ("gTLD") is viewed as a standard registration requirement and is generally disregarded under the first element of the confusing similarity test, as set forth in section 1.11.1 of [WIPO Overview 3.0](#).

Based on the above, the Panel finds that the disputed domain name is confusingly similar to the trademark UNIVAR on which the Complainant has rights and that the requirements of paragraph 4(a)(i) of the Policy are fulfilled.

B. Rights or Legitimate Interests

Pursuant to paragraph 4 (c) of the Policy, a respondent may establish rights to or legitimate interests in a domain name by demonstrating any of the following non-exclusive defenses:

- (i) before any notice to it 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 has been commonly known by the domain name, even if it has 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.

Although the Policy addresses ways in which a respondent may demonstrate rights or legitimate interests in a disputed domain name, it is well established that a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the domain name (section 2.1 of [WIPO Overview 3.0](#)). Once such *prima facie* case is made, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name and if the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element (see *Do The Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#); *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#)).

The Complainant has claimed not to have authorized, licensed, or permitted the Respondent to register or use the disputed domain name or to use the UNIVAR trademark or the Univar Solutions name nor there is any other evidence in the file suggesting that the Respondent has or could have rights or legitimate interests in the disputed domain name. Also, the Complainant has prior rights in the UNIVAR trademark and in the Univar Solutions name which clearly precede the Respondent's registration of the disputed domain name.

Likewise, it does not seem that the Respondent: (i) has used or prepared to use the disputed domain name in connection with a *bona fide* offering of goods or services, (ii) has been commonly known by the disputed domain name; or (iii) is making a legitimate noncommercial or fair use of the disputed domain name. On the contrary, it has been demonstrated that the Respondent used the disputed domain name to misleadingly divert consumers to the Complainant's own website, attempting to create a false impression that the disputed domain name was associated with the Complainant's website.

Given these circumstances, the Panel finds that the Complainant has made out a *prima facie* case. Having made such *prima facie* case, the burden of production then is shifted to the Respondent to refute the Complainant's assertion or to demonstrate *bona fide* use of the disputed domain name. The Respondent has not submitted a reply, and the Panel is unable to consider any reasonable basis upon which the Respondent could sensibly be said to have any rights or legitimate interests in respect of the disputed domain name (see *Telstra Corporation Ltd. v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

The Panel therefore finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name and that the requirements of paragraph 4(a)(ii) of the Policy have been fulfilled.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy contains a non-exhaustive list of factors evidencing registration and use in bad faith. Among others, it states that it is sufficient to support a finding of bad faith the fact that by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its 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 website or location or of a product or service on the website or location.

The Complainant has submitted evidence to support that the trademark UNIVAR is widely known and was registered and used many decades before the Respondent registered the disputed domain name. When registering the disputed domain name, the Respondent has targeted the Complainant's trademark UNIVAR to generate confusion among Internet users and benefit from the Complainant's reputation.

In such connection, it is clear that the Respondent registered a domain name containing a misspelled version of the Complainant's name in what appears to be a typosquatting registration. The Complainant correctly asserted that due to the closeness between the letters "i" and "u" in the QWERTY keyboard, it is possible that an Internet user may inadvertently mistype the word "solutions".

Besides, the Complainant proved that the disputed domain name previously redirected to the Complainant's own website and that MX records have been set up for the disputed domain name (as per Annex 15 of the Complaint), which would enable the Respondent to send emails under the disputed domain name that is confusingly similar to the Complainant's mark, such as phishing emails.

However, considering that the disputed domain name no longer resolves to an active website or redirects to the Complainant's website, it is next necessary to consider whether the current inactive status of the disputed domain name prevents a finding of bad faith under the doctrine of passive holding. The factors generally considered relevant to such an assessment have been set out in a number of previous UDRP panel decisions, which are the following: (i) the Complainant's UNIVAR mark is distinctive and well established, (ii) the Respondent has failed to submit a response to the Complaint or provide any evidence of good-faith use, (iii) the Respondent has taken steps to conceal its identity through use of a privacy service, and (iv) there is no conceivable good faith use to which the disputed domain name could be put by the Respondent.

Lastly, the Panel has made some limited investigations on the Respondent and found that the Respondent was the respondent in other UDRP cases (*Univar Solutions Inc. v. SIMON LUBWAMA*, WIPO Case No. [D2023-2213](#) and *SOLVAY SA v. SIMON LUBWAMA*, WIPO Case No. [D2023-2015](#)), where it was found to have registered a domain name containing typosquatting of the complainant's marks also to redirect Internet users to the complainant's website. Thus, the Respondent has already engaged in a similar conduct in the past.

Based on the above, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(iii) 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, <univarsolutions.com>, be transferred to the Complainant.

/Iris Quadrio/

Iris Quadrio

Sole Panelist

Date: September 15, 2023