

ADMINISTRATIVE PANEL DECISION

Univar Solutions Inc. v. 杨智超 (Zhi Chao Yang)
Case No. D2023-1704

1. The Parties

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

The Respondent is 杨智超 (Zhi Chao Yang), China.

2. The Domain Names and Registrars

The disputed domain names <comunivarsolutions.com>, <univarolutions.com>, <univaro solutions.com>, <univarrsolutions.com>, <univarsilutions.com>, <univarslolutions.com>, <univarslutions.com>, <univarsolutions.com>, <univarsokutions.com>, <univarsollutions.com>, <univarsoltions.com>, <univarsoltuions.com>, <univarsolutiins.com>, <univarsolutiions.com>, <univarsolutinos.com>, <univarsolutiobs.com>, <univarsolutioms.com>, <univarsolutiona.com>, <univarsolutiond.com>, <univarsolutionns.com>, <univarsolutionsn.com>, <univarsoluti0ns.com>, <univarsolutons.com>, <univarsolutoons.com>, <univarsoluttions.com>, <univarsolutuons.com>, <univarsoluations.com>, <univarsolyions.com>, <univarsolytions.com>, <univarsoolutions.com>, <univarsplutions.com>, <univars0lutions.com>, <univasolutions.com>, <univatsolutions.com>, <univrasolutions.com>, <univrsolutions.com>, <univarsolutions.com>, <unnivarsolutions.com>, <unovarsolutions.com>, <unuvarsolutions.com>, <unvarsolutions.com>, <unviarsolutions.com>, <uunivarsolutions.com>, <wwwunivarsolutions.com>, and <ynivarsolutions.com> are registered with Cloud Yuqu LLC.

The disputed domain names <univarsolitions.com>, <univarsoluions.com>, <univarsolurions.com>, <univarsolutins.com>, <univarsolutioons.com>, <univarsolutipns.com>, and <univarsolutlons.com> are registered with Chengdu West Dimension Digital Technology Co., Ltd.

Cloud Yuqu LLC and Chengdu West Dimension Digital Technology Co., Ltd. are separately and collectively referred to below as “the Registrar”.

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on April 18, 2023. On the following day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On April 20, 2023, the Registrar transmitted by

email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on the same day 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 in English on April 21, 2023.

On April 20, 2023, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On April 21, 2023, the Complainant requested that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

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 in English and Chinese of the Complaint, and the proceedings commenced on April 26, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 16, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 19, 2023.

The Center appointed Matthew Kennedy as the sole panelist in this matter on May 30, 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 is a chemical and ingredient distributor that operates in the aerospace, agriculture and energy industries, among others. The Complainant was originally named Van Waters & Rogers after its founders, then became VWR United Company after a merger. It changed its name to Univar, Inc. in 1970 and then adopted current name, Univar Solutions Inc., in 2019. It now uses a logo that features the name "Univar Solutions". The Complainant holds multiple trademark registrations for UNIVAR in multiple jurisdictions, including the following:

- United States trademark registration number 1724817, registered on October 20, 1992, specifying goods and services in classes 1, 3, 4, 5, 39, and 42;
- Chinese trademark registrations numbers 3233858, 3233859, and 3233860, registered on September 21, 2003, May 14, 2004, and February 7, 2004, respectively, specifying goods in classes 4, 3, and 2, respectively.

The above trademark registrations remain current. The Complainant has registered multiple domain names that incorporate "univar", including <univarsolutions.com> that it uses in connection with its main website where it provides information about itself and its products.

The Respondent is an individual based in China.

The disputed domain names <univarsoluions.com>, <univarsolutins.com>, and <univarsolutons.com> were registered on August 30, 2022. The other 50 disputed domain names were registered on November 3, 2022. All disputed domain names resolve to landing pages displaying Pay-Per-Click ("PPC") links for chemical suppliers.

5. Parties' Contentions

A. Complainant

The disputed domain names are confusingly similar to the Complainant's UNIVAR registered trademark. "Univar Solutions" is also a distinctive identifier associated with the Complainant's services.

The Respondent has no rights or legitimate interests in respect of the disputed domain names. The Respondent has not received any license from the Complainant to use a domain name featuring the UNIVAR mark. The Respondent uses the disputed domain names to direct to third party websites, including competitors of the Complainant, which is not a use in connection with a *bona fide* offering of goods or services. The Respondent is not commonly known by the disputed domain names. The Respondent is not making a legitimate noncommercial or fair use of the disputed domain names.

The disputed domain names were registered and are being used in bad faith. The Complainant's trademark registrations predate the creation of the disputed domain names by 30 years. Substantial goodwill has accrued since the Complainant's establishment in 1924. The Respondent has clearly registered the disputed domain names to target the Complainant's brand intentionally. All of the disputed domain names are offered for sale for USD 3,950 each. The Respondent has engaged in an abusive pattern of conduct against the Complainant. All disputed domain names resolve to a webpage displaying PPC links, redirecting Internet users to third party websites, which constitutes a clear attempt to generate commercial gain by misleading online users with the disputed domain names.

B. Respondent

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

6. Discussion and Findings

6.1 Procedural Issue: Language of the Proceeding

Paragraph 11(a) of the Rules provides that "unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding". The Registrar confirmed that the Registration Agreements for the disputed domain names are in Chinese.

The Complainant requests that the language of the proceeding be English. Its main arguments are that the Complainant does not understand Chinese whereas there is evidence of the Respondent's ability to understand English as the landing pages to which the disputed domain names resolve are in English and the disputed domain names are solely composed of Latin characters; translation would add considerable costs to the Complainant and create delay of the proceeding.

Paragraphs 10(b) and (c) of the Rules require the Panel to ensure that the Parties are treated with equality, that each Party is given a fair opportunity to present its case and that the administrative proceeding take place with due expedition. Prior UDRP panels have decided that the choice of language of the proceeding should not create an undue burden for the parties. See, for example, *Solvay S.A. v. Hyun-Jun Shin*, WIPO Case No. [D2006-0593](#); *Whirlpool Corporation, Whirlpool Properties, Inc. v. Hui'erpu (HK) electrical appliance co. ltd.*, WIPO Case No. [D2008-0293](#).

The Panel observes that in this proceeding the Complaint and the amended Complaint were filed in English. Despite the Center having sent an email regarding the language of the proceeding and the notification of the Complaint in both Chinese and English, the Respondent has not commented on the issue of language nor expressed any interest in otherwise participating in this proceeding. Therefore, the Panel considers that

requiring the Complainant to translate the amended Complaint would create an undue burden and delay, whereas accepting it as filed without translation will not cause unfairness to either Party.

Having considered all the circumstances above, the Panel determines under paragraph 11(a) of the Rules that the language of this proceeding is English. The Panel would have accepted a Response in Chinese, but none was filed.

6.2 Substantive Issues

Paragraph 4(a) of the Policy provides that a complainant must prove the following elements:

- (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.

A. Identical or Confusingly Similar

Based on the evidence submitted, the Panel finds that the Complainant has rights in the UNIVAR mark.

41 disputed domain names wholly incorporate the UNIVAR mark, in three cases followed by the word “solutions” and preceded by additional letters (variously “com”, “u” or “www”) and in 38 cases followed by a misspelt version of the word “solutions”. The addition of these letters and this word, even misspelt, does not avoid a finding of confusing similarity because in each case the UNIVAR mark remains clearly recognizable within the disputed domain name. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.8.

The remaining 12 disputed domain names incorporate a misspelt version of the UNIVAR mark (variously with a letter omitted, duplicated, or substituted by another character, or with two letters reversed) followed by the word “solutions” or a misspelt version of the word “solutions”. These are cases of “typosquatting”, which does not prevent a finding of confusing similarity because each of these disputed domain names contains sufficiently recognizable aspects of the UNIVAR mark. See [WIPO Overview 3.0](#), section 1.9.

The only additional element in each disputed domain name is a generic Top-Level Domain (“gTLD”) extension (“.com”). As a mere standard requirement of domain name registration, this element may be disregarded in the comparison with a trademark unless it has some impact beyond its technical function, which is not the case here. See [WIPO Overview 3.0](#), section 1.11.

Therefore, the Panel finds that the disputed domain names are confusingly similar to a trademark in which the Complainant has rights. The Complainant has satisfied the first element of paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets out the following circumstances which, without limitation, if found by the Panel, shall demonstrate that the Respondent has rights to, or legitimate interests in, a disputed domain name, for the purposes of paragraph 4(a)(ii) of the Policy:

- (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 trademark 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 trademark or service mark at issue.

With respect to the first and third circumstances set out above, the disputed domain names are all misspelt versions of the Complainant's domain name <univarsolutions.com>, which includes the UNIVAR mark, and they all resolve to landing pages displaying PPC links for chemical suppliers, including competitors of the Complainant. The Complainant submits that the Respondent has not received any license from it to use a domain name featuring the UNIVAR mark. The PPC links operate for the commercial gain of the Respondent, if he is paid to direct traffic to the linked websites, or for the commercial gain of the operators of the linked websites, or both. The Panel does not consider that the Respondent is using the disputed domain names in connection with a *bona fide* offering of goods and services. Nor is the Respondent making a legitimate noncommercial or fair use of the disputed domain names.

With respect to the second circumstance set out above, the Respondent's name is listed in the Registrar's Whois database as 杨智超 (Zhi Chao Yang), not the disputed domain name. Nothing on the record indicates that the Respondent has been known as the disputed domain name.

In summary, the Panel considers that the Complainant has made a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent failed to rebut that *prima facie* case because he did not respond to the Complaint.

Therefore, based on the record of this proceeding, the Complainant has satisfied the second element in paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that certain circumstances, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith. The fourth circumstance is as follows:

- (iv) by using the [disputed] domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent's] web site 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] web site or location or of a product or service on [the respondent's] web site or location.

The disputed domain names were registered in 2022, years after the Complainant acquired its registered trademark rights in UNIVAR, including in China, where the Respondent is based. All 53 disputed domain names (most of which were registered on the same day) follow a pattern that clearly reveals an intention to approximate the Complainant's domain name <univarsolutions.com>. That circumstance demonstrates an awareness of the Complainant, its UNIVAR trademark, and its domain name at the time of registration of the disputed domain names, even though the UNIVAR trademark is misspelt in certain disputed domain names. In view of these circumstances, the Panel finds that the Respondent registered the disputed domain names in bad faith.

The disputed domain names are used in order to attract Internet users searching for the Complainant's website but who mistype its domain name in an Internet browser, in order to divert them to the Respondent's landing pages displaying links to the websites of chemical suppliers, including competitors of the Complainant. This use is intentional and for the commercial gain of the Respondent, or the operators of the linked websites, or both. In view of these circumstances, the Panel finds that by using the disputed domain names, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's landing pages by creating a likelihood of confusion with the Complainant's UNIVAR mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's landing pages within the terms of paragraph 4(b)(iv) of the Policy.

