

ADMINISTRATIVE PANEL DECISION

Solvay SA v. Dat Nguyen
Case No. D2023-2794

1. The Parties

The Complainant is Solvay SA, Belgium, represented by PETILLION, Belgium.

The Respondent is Dat Nguyen, Viet Nam.

2. The Domain Name and Registrar

The disputed domain name <solvayapps.org> is registered with Hosting Concepts B.V. d/b/a Registrar.eu. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 30, 2023. On June 30, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 3, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 11, 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 12, 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 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 3, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 5, 2023.

The Center appointed Erica Aoki as the sole panelist in this matter on August 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

The Complainant is a global science company specialized in high-performance polymers and composites technologies, and a leader in chemicals. The Complainant's group was founded in 1863, with offices in Brussels and employs 22,000 people in 61 countries. In 2022, the Complainant's net sales were EUR 13.4 billion.

The Complainant holds a portfolio of trademark registrations for SOLVAY, including International Trademark Registration No. 1171614, registered on February 28, 2013, designating among others Viet Nam. The Complainant's SOLVAY trademark is well known all over the world, due to the Complainant's international presence and to its marketing investments. The SOLVAY mark is used extensively, including on social media, and has been recently ranked for several years in the top 10 most powerful and valuable Belgian brands. The SOLVAY trademark's value was estimated at EUR 795 million in 2020.

Furthermore, the Complainant owns the domain name <solway.com> since 1995, and uses it to refer to its official website and for its internal mailing system.

The disputed domain name was registered on June 19, 2023. The disputed domain name does not resolve to an active website but the email function of the disputed domain name has been enabled.

5. Parties' Contentions

A. Complainant

The Complainant was created in 1863 as a start-up enterprise manufacturing sodium carbonate with a radically new industrial process. This was the dawn of the second industrial revolution, an era of a dogmatic belief in progress through science and industry. The Complainant pioneered the heavy chemical industry in numerous countries, including the United States of America ("US") in 1881. The Syracuse plant, the first in the US to manufacture soda ash, was located in a town that would eventually be named after Solvay. The Complainant was one of the earliest companies to go multinational and took advantage of the extraordinary expansion of the world economy in the last quarter of the 19th century. As early as the 1880s, it had plants both wholly owned and through partnerships.

The Complainant holds registrations for the trademark SOLVAY and variations thereof in numerous countries around the world including Viet Nam, where SOLVAY trademark is used by the Complainant at least since 2000, and is considered as a well-known trademark all over the world.

The Complainant contends that the disputed domain name is confusingly similar to the Complainant's trademark, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name was 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 is required to establish the requirements specified under paragraph 4(a) of the Policy:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in respect of 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 facts presented by the Complainant, this Panel finds that the Complainant has established its rights in the trademark SOLVAY through registration and use. The Panel finds that disregarding the generic Top-Level Domain (“gTLD”) “.org”, the disputed domain name is identical to the Complainant’s registered trademark with the only difference being the insertion of the additional term “apps”, the common abbreviation for (software) “applications”, after the Complainant’s trademark, which does not avoid a finding of confusing similarity.

The Panel therefore finds that the disputed domain name is confusing similar to the Complainant’s trademark.

B. Rights or Legitimate Interests

The Panel finds the following on record in this proceeding under the Policy:

The Respondent is in default and thus has made no affirmative attempt to show any rights or legitimate interests in the disputed domain name.

Paragraph 4(c) of the Policy indicates that a registrant may have a right or legitimate interest in a domain name if it uses the domain name in connection with a *bona fide* offering of goods or services prior to notice of the dispute. In this regard, the Respondent is in no way connected with the Complainant, has no authorization to use any of the Complainant’s trademarks, and has made no use of the disputed domain name.

There is no evidence on record that the Respondent is or was commonly known by the disputed domain name as an individual, business, or other organization.

There is no evidence on record that 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 Complainant’s trademark.

Thus, the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Panel therefore finds that the Complainant has established an un rebutted *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name, under the Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

The Complainant noticed that the email function of the disputed domain name is enabled. Considering the Complainant’s size and wide range of activities, there is a high risk related to any fraudulent use of the disputed domain name. It appears that the Respondent has registered the disputed domain name for potential fraudulent activity, e.g., by profiting from the likelihood of confusion with the Complainant’s trademark for phishing activities.

The Complainant’s trademark was registered well before the registration of the disputed domain name, and considering the reputation of the Complainant’s trademark, it is most likely that the Respondent knew or should have known of the Complainant’s SOLVAY trademark when registering the disputed domain name.

Furthermore, the Complainant’s SOLVAY trademark is distinctive and unique to the Complainant. It is therefore beyond the realm of coincidence that the Respondent chose the disputed domain name without the intention of invoking a misleading association with the Complainant.

Considering the above, the Panel finds that the Respondent registered the disputed domain name in bad faith.

The disputed domain name does not resolve to an active website. However, based on the addictiveness and reputation of the Complainant's trademark, the lack of response from the Respondent, and the implausibility of any good faith use the disputed domain name may be put, the Panel finds that the non-use of the disputed domain name does not prevent a finding of bad faith under the doctrine of passive holding in this case.

Accordingly, and as also supported by the Panel's findings above under the second element of the Policy, the Panel finds that the Respondent has registered and is using the disputed domain name in bad faith under the Policy, paragraph 4(a)(iii).

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 <solvayapps.org> be transferred to the Complainant.

/Erica Aoki/

Erica Aoki

Sole Panelist

Date: August 24, 2023