

## **ADMINISTRATIVE PANEL DECISION**

Solvay SA v. Privacy Service Provided by Withheld for Privacy ehf / Kelly Jones

Case No. D2022-0669

### **1. The Parties**

The Complainant is Solvay SA, Belgium, represented internally.

The Respondent is Privacy Service Provided by Withheld for Privacy ehf, Iceland / Kelly Jones, United States of America ("United States").

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

The disputed domain name <supportolvay.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 February 25, 2022. On February 25, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 25, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on February 28, 2022, 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 amendment to the Complaint on February 28, 2022.

The Center verified that the Complaint together with the amendment to 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 March 4, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 24, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 25, 2022.

The Center appointed Leon Trakman as the sole panelist in this matter on March 29, 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**

The Complainant is a global science company specializing in producing polymers and composites technologies, and chemical production. The Complainant's group was founded 1863, has its registered offices in Brussels, Belgium. It has global operations across multiple countries with billions of Euros in net sales.

The Complainant has registered multiple trademarks including:

SOLVAY, European Union word mark registered on May 30, 2000 under No. 000067801 in classes 1, 3, 4, 5, 7, 9, 10, 12, 17, 19, 20 and 31;

SOLVAY, European Union word mark registered on February 28, 2013 under No. 011664091 in classes 1, 2, 3, 4, 5, 7, 9, 10, 12, 17, 19, 22, 23, 24, 25, 30, 31, 34, 35, 36, 37, 39, 40 and 42; and

SOLVAY, International word mark registered on February 28, 2013 under No. 1171614 in classes 1, 2, 3, 4, 5, 7, 9, 10, 12, 17, 19, 22, 23, 24, 25, 30, 31, 34, 35, 36, 37, 39, 40 and 42 in multiple countries.

This decision will refer to these trademarks collectively as "the Complainant's trademark".

The disputed domain name was registered on February 8, 2022. At the time of filing the Complaint, the disputed domain name was inactive.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant adduces evidence that, on February 23, 2022, it becomes aware of the registration of the disputed domain name, that the disputed domain name directed users to an inactive web page; and that the Complainant submitted a complaint to the Internet Service Provider, Namecheap, to suspend services to the disputed domain name on grounds of fraud.

The Complainant contends that, under paragraph 4(a) of the Policy:

1. The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
2. The Respondent has no rights or legitimate interests in the disputed domain name; and
3. 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

### A. Identical or Confusingly Similar

The Panel determines that the disputed domain name is confusingly similar to the Complainant's trademark, contrary to Policy, paragraph 4(a)(i); Rules, paragraphs 3(b)(viii), (b)(ix)(1).

In reaching this determination, the Panel finds that the disputed domain name incorporates the Complainant's trademark in its entirety, adding the descriptive prefix "support". It is well established that a disputed domain name that is identical to the Complainant's trademark, other than by adding descriptive terms, does not prevent a finding of it being confusingly similar to that trademark. Section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). In addition, the inclusion of a generic Top-Level Domains ("gTLDs") in the disputed domain name does not refute the confusing similarity between that name and a complainant's trademark. See Section 3.1, [WIPO Overview 3.0](#).

Accordingly, neither the addition of the word "support", nor the gTLD, negates the finding that the disputed domain name is confusingly similar to the Complainant's trademark, contrary to paragraph 4(a)(i) of the Policy in this case.

### B. Rights or Legitimate Interests

The Panel determines that the Respondent has no rights or legitimate interests in the disputed domain name, contrary to paragraph 4(a)(ii) of the Policy.

The Panel acknowledges that the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in the disputed domain name. However, if the Complainant establishes a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name, that evidentiary burden of production shifts to the Respondent. See Section 2.1 [WIPO Overview 3.0](#). See also *Champion Innovations, Ltd. v. Udo Dussling (45FHH)*, WIPO Case No. [D2005-1094](#); *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#); *Belupo d.d. v. WACHEM d.o.o.*, WIPO Case No. [D2004-0110](#).

The Complainant has established, to the satisfaction of this Panel, that the Respondent is not "commonly known" by the disputed domain name. On prior UDRP decisions to similar effect, see *Crocs Inc. v. Alex Xie*, WIPO Case No. [D2011-1500](#) and *World Natural Bodybuilding Federation, Inc. v. Daniel Jones TheDotCafe*, WIPO Case No. [D2008-0642](#).

The Complainant has also not provided express, implied, or ostensible authority for the Respondent to register and use the disputed domain name. Nor has the Complainant ratified that registration and use, whether by permission, license, or by other legal means. See *LEGO Juris A/S v. DomainPark Ltd, David Smith, Above.com Domain Privacy, Transure Enterprise Ltd, Host master*, WIPO Case No. [D2010-0138](#).

As a result, the Panel finds ample evidence that the Respondent has no rights or legitimate interests in the disputed domain name and that it has not complied with the requirements in paragraph 4(a)(ii) of the Policy.

### C. Registered and Used in Bad Faith

The Panel determines that the Respondent has registered and is using the disputed domain name in bad faith, contrary to the Policy, paragraph 4(a) (iii) and Section 3.6, [WIPO Overview 3.0](#).

In registering the name, it is most probable that the Respondent was aware of the Complainant's well established and internationally known trademark. That probability is accentuated by the strong likelihood that, in registering the disputed domain name, the Respondent intended to imply an affiliation with the Respondent through that name and contrary to Section 2.5.1 of WIPO Overview 3).

In registering that name, the Respondent also likely intended to create the false assumption that the disputed domain name directed them with access Internet users to the Complainant's website, or to a website of the Complainant's agent, affiliate or authorized supplier or dealer. See *Bulmers Limited, Wm. Magner Limited v. Piri Jaroubek N.A.*, WIPO Case No. [D2009-1369](#).

The further likelihood is that the Respondent registered the name to profit from an inferred affiliation with the Complainant, such as to direct Internet users to its website in the future and inferentially, away from that of the Complainant. That registration was also likely intended to profit the Respondent, as a cyber squatter, to sell the disputed domain name to the Complainant or a third party, or to otherwise use the name for illegitimate purposes.

The Panel determines, further that the Respondent is using the disputed domain name in bad faith for the purpose of securing confidential information from customers and suppliers of the Complainant to include in emails to them, purporting to come from the Complainant. In doing so, the Respondent engaged in bad faith use directed at misleading Internet user into believing that the disputed domain name is sponsored by, affiliated with, or endorsed by the Complainant.

There are various further facts in support of a finding of bad faith use. The Respondent used a privacy service with the probable intention of concealing its identity from detection. The Respondent demonstrably sent emails to third party customers and suppliers of the Complainant, using an email address ([solvay.collections@supportsolvay.com](mailto:solvay.collections@supportsolvay.com)) designed to both mislead them. As additional evidence of bad faith use, the emails sent by the Respondent requests settlement of pending invoices or to place orders. Accentuating that bad faith, is the Respondent's use of the Complainant's corporate signature designed to deceive Internet users into believing that the Respondent is the Complainant. Such phishing constitutes direct evidence that the Respondent's is using the disputed domain name in bad faith.

The Panel acknowledges that the disputed domain name directs users to a website that includes a single page stating "502 – Bad Gateway" which demonstrates that the website is not active. However, this does not render the Respondent's bad faith into good faith use of the disputed domain name, given other evidence of bad faith use of the disputed domain name and the potential for the Respondent to activate the website in the future on account of it.

Additional evidence of bad faith use is the fact that the Respondent's email refers to actual invoice numbers and the unpaid status of invoices, being confidential information held by the Complainant's Accounting Department. How the Respondent secured access to such information raises issues about its availability for such use. That still does not detract from bad faith use, in the Respondent deliberately using such confidential information to deceive Internet users that the Respondent was acting as, or on behalf of, the Complainant.

Accordingly, the Panel decides that the Respondent has registered and is using the disputed domain name in bad faith in deliberate violation of 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 <[supportsolvay.com](http://supportsolvay.com)> be transferred to the Complainant.

*/Leon Trakman/*

**Leon Trakman**

Sole Panelist

Date: April 11, 2022