

ADMINISTRATIVE PANEL DECISION

Solidium Oy v. Domain Administrator, See PrivacyGuardian.org / Bitrst Limited

Case No. D2022-0876

1. The Parties

The Complainant is Solidium Oy, Finland, represented by Properta Attorneys Ltd, Finland.

The Respondent is Domain Administrator, See PrivacyGuardian.org, United States of America / Bitrst Limited, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <solidiumlimited.com> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 14, 2022. On March 14, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 14, 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 March 16, 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 March 21, 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 24, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 13, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 14, 2022.

The Center appointed Miguel B. O’Farrell as the sole panelist in this matter on April 25, 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, Solidium Oy, is a Finnish company based in Helsinki involved in, among others, investment, and several types of financial services.

The Complainant is the owner of the trademark SOLIDIUM in Finland, namely, word mark SOLIDIUM, registration No. 279110, registered on November 23, 2020, in classes 35 and 36, covering, among others, investment, and several types of financial services.

The disputed domain name was registered on October 27, 2021, and resolves to a website offering similar services to those offered by the Complainant.

5. Parties' Contentions

A. Complainant

The Complainant claims that the disputed domain name is confusingly similar to the trademark SOLIDIUM in which the Complainant has rights and that the Respondent has no rights or legitimate interests in the disputed domain name, which was registered and is being used in bad faith.

More specifically, the contents of the website to which the disputed domain name resolves is dominated by the Complainant's trademark and trade name and other company information which creates a misleading image to the public that the website would be maintained by the Complainant. Printout of screenshot from the website shows that the address provided is the Complainant's address which gives the untrue and misleading impression that the website would be operated by the Complainant.

A clear indication of bad faith is that on the website, users are encouraged to provide information and invest their money to an obvious scam as proven by the email sent by a victim stating that it had lost USD 4,500 because of it.

Consequently, the Complainant decided to initiate this administrative proceeding requesting the Panel to issue a decision cancelling the disputed domain name.

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 disputed domain name is confusingly similar with the Complainant’s SOLIDIUM trademark.

The disputed domain name incorporates the Complainant’s trademark SOLIDIUM in its entirety with the addition of the word “limited”, which certainly does not prevent a finding of confusing similarity.

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

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

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets out the following several 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.

The Complainant has proved that it is the owner of the SOLIDUM trademark. There is no indication that it has licensed or otherwise permitted the Respondent to use any of its trademarks, nor has the Complainant permitted the Respondent to apply for or use any domain name incorporating its trademark.

There is no evidence in the present case that the Respondent has been commonly known by the disputed domain name, enabling it to establish rights or legitimate interests therein. The name of the Respondent does not resemble the disputed domain name in any manner.

Furthermore, there is no evidence in the file to prove any of the circumstances mentioned in paragraph 4(c) of the Policy, nor any other element to prove that the Respondent has legitimate interests or that it has established rights in the disputed domain name.

As established in sections 2.5 and 2.5.1 of [WIPO Overview 3.0](#): “Fundamentally, a respondent’s use of a domain name will not be considered ‘fair’ if it falsely suggests affiliation with the trademark owner; the correlation between a domain name and the complainant’s mark is often central to this inquiry. [...] Generally speaking, UDRP panels have found that domain names identical to a complainant’s trademark

carry a high risk of implied affiliation.” Here, the disputed domain name incorporates the Complainant’s mark in its entirety and the disputed domain name is being used to offer competing services, which clearly fails to constitute fair use. Moreover, the apparent fraudulent nature behind the use of the disputed domain name can never confer rights or legitimate interests upon the Respondent.

The Panel finds that the Complainant has made out a *prima facie* case, a case calling for an answer from the Respondent. The Respondent has not responded and the Panel is unable to conceive of any basis upon which the Respondent could sensibly be said to have any rights or legitimate interests in respect of the disputed domain name (*Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

The Panel 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

The Panel is satisfied that the Respondent must have been aware of the Complainant’s trade name and trademark SOLIDUM mentioned in section 4 above (Factual Background) when it registered the disputed domain name on October 27, 2021.

By registering the disputed domain name, the Respondent was targeting the Complainant and its business by incorporating the Complainant’s trademark SOLIDUM in its entirety and adding the word “limited”, which only contributes to increase confusion. “Limited” and its abbreviation “Ltd” are used in the names of limited companies. The Complainant is a limited liability company and the letters “Oy” in its name are the Finnish abbreviation corresponding to “Ltd” and indicating that the Complainant is a limited company. This creates a risk of confusion among Internet users as the disputed domain name not only includes the entire trademark SOLIDUM, but also the whole company identity of the Complainant.

The fact that there is a clear absence of rights or legitimate interests coupled with no credible explanation for the Respondent’s choice of the disputed domain name, the nature of the disputed domain name, the use of the disputed domain name to resolve to a website in which Internet users are encouraged to provide information and invest their money in what appears to be a scam is a clear indication of bad faith. The Panel finds that the Respondent registered and is using the disputed domain name in bad faith.

For the above reasons, the Panel finds that the requirements of paragraph 4(a)(iii) of the Policy have been fulfilled.

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 <solidiumlimited.com> be cancelled.

/Miguel B. O’Farrell/

Miguel B. O’Farrell

Sole Panelist

Date: May 27, 2022