

## **ADMINISTRATIVE PANEL DECISION**

**Solvay SA v. Registration Private, Domains By Proxy, LLC / Jorge Cosano**  
**Case No. D2022-3070**

### **1. The Parties**

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

The Respondent is Registration Private, Domains By Proxy, LLC, United States of America (“United States” or “US”) / Jorge Cosano, United States.

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

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 19, 2022. On August 19, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 19, 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 August 22, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. On August 22, 2022, the Center received two email communications from the Respondent. The Complainant filed an amended Complaint on August 22, 2022.

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 August 24, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 13, 2022. The Respondent did not submit any formal response. Accordingly, the Center notified the commencement of panel appointment process on September 14, 2022.

The Center appointed Angelica Lodigiani as the sole panelist in this matter on September 19, 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 company specialized in high-performance and composites technologies and a leader in chemicals. The Complainant's group was founded in 1863 and has its registered offices in Belgium. The Complainant employs more than 21,000 people in 63 countries. Its net sale was equal to EUR 10,1 billion in 2021. The Complainant's mark has been ranked for several years in the top 10 most powerful and valuable Belgium brands. In 2020, the SOLVAY mark value was estimated at EUR 795 million.

The Complainant is the owner of a large trademark portfolio, including the following trademarks:

- SOLVAY, European trademark registration No. 000067801, registered on May 30, 2000, for goods in classes 1, 3, 4, 5, 7, 9, 10, 12, 17, 19, 20 and 31;
- SOLVAY, European trademark registration No. 011664091, filed on August 13, 2013, for goods and services 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 registration No. 1171614 of February 28, 2013, for goods and services 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, designating several countries including the United States;

The disputed domain name has been registered on December 21, 2021 and resolves to a parking page with sponsored links, including links referring to the Complainant and its subsidiaries.

On January 14, and April 26, 2022, the Complainant contacted the Registrar of the disputed domain name through the required abuse form, but failed to receive a reply.

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

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

The Complainant maintains that the disputed domain name is similar to the Complainant's SOLVAY mark as it incorporates it entirely, and simply adds the descriptive term "technologies". When the relevant trademark is recognizable within the disputed domain name, the addition of other terms would not prevent a finding of confusing similarity under the first element of the Policy.

The Complainant further maintains that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent does not appear to be commonly known by the disputed domain name. The Respondent does not own any SOLVAY mark, nor was authorized by the Complainant to make use of this mark within the disputed domain name. By including in the disputed domain name the Complainant's mark followed by the generic term "technologies", which can easily be linked to the Complainant, as it is specialized in composites technologies, the Respondent is impersonating the Complainant or suggesting sponsorship or endorsement by the trademark owner. The disputed domain name leads to a parking page with sponsored links including links referring to the Complainant and to its subsidiaries. Such use does not amount to a *bona fide* or legitimate use of the disputed domain name.

Furthermore, the Respondent details in the relevant WhoIs records appear under the name "Registration Private" from the organization "Domains By Proxy, LLC". Thus, the Respondent has deliberately used a

privacy/proxy service aimed at hiding his real identity and contact information.

Lastly, according to the Complainant, the Respondent registered and is using the disputed domain name in bad faith. With respect to registration in bad faith, the Complainant emphasizes that the disputed domain name includes the Complainant's distinctive and reputed trademark in its entirety and combines it with a term that is easily linked to the Complainant's technology business. Furthermore, almost all the sponsored links on the website associated with the disputed domain name relate to the Complainant. In view of the high reputation of the SOLVAY trademark, it is not conceivable that the Respondent was unaware of the Complainant and its rights in the SOLVAY mark at the time of the registration of the disputed domain name. The registration of a domain name incorporating a well-known trademark in circumstances where the Respondent itself had no rights or legitimate interests in said trademark amounts to registration in bad faith.

In relation to use in bad faith, the Complainant points out that given the well-known and distinctive character of the Complainant's mark, there is no reason to use this mark in the disputed domain name other than to profit from the Complainant's reputation by creating a likelihood of confusion with its mark. Therefore, according to the Complainant, the Respondent is using the disputed domain name to attempt to attract, for commercial gain, Internet users to a 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 with the Complainant's mark of the web site or location or of a product or service on the web site or location.

Furthermore, it appears that the Respondent used a privacy service when registering the disputed domain name and therefore took active steps to conceal his identity. In combination with the above, this circumstance further supports a finding of bad faith.

## **B. Respondent**

Further to the two informal communications, the Respondent did not reply to the Complainant's contentions.

## **6. Discussion and Findings**

### **A. Identical or Confusingly Similar**

The Panel finds that the Complainant has proved ownership over the trademark SOLVAY and that this trademark was registered well before the registration of the disputed domain name. The Panel agrees that the disputed domain name is confusingly similar to the Complainant's trademark in view of the fact that it fully reproduces said trademark, which is clearly recognizable within the disputed domain name. Moreover, the addition of the word "technologies" to the disputed domain name is not such as to prevent confusing similarity. According to section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element.

Therefore, the Panel concludes that the first requirement under the Policy is met.

### **B. Rights or Legitimate Interests**

While the overall burden of proof rests with the complainant, UDRP panels have recognized that this could result in the often impossible task of proving a negative, requiring information that is often primarily within the knowledge of the respondent. As such, where a complainant makes a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

In the case at issue, the Panel finds that between the Complainant and the Respondent there is no business relation, and that the Respondent is not authorized to register and use a domain name confusingly similar to

the Complainant's trademark. Furthermore, the Respondent does not appear to have been commonly known by the name "solwaytechnologies".

The disputed domain name leads to a parking page with sponsored links including links referring to the Complainant and to its subsidiaries. The Respondent is probably earning an income from each click on the said links. Such use does not amount to a *bona fide* or noncommercial legitimate 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 Respondent is impersonating the Complainant or suggesting its sponsorship or endorsement through several acts: (i) the inclusion in the disputed domain name of the Complainant's trademark followed by a generic term referring to the Complainant's activity; (ii) the sponsored links relating to the Complainant and to its subsidiaries appearing on relevant parking page associated to the disputed domain name; and (iii) the addition of the term "technologies" to the Complainant's trademark in the disputed domain name, which refers to the Complainant's activity.

In view of the above, the Panel finds that the Complainant has discharged its burden of proof that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The burden of production now shifts to the Respondent to demonstrate that he owns rights or legitimate interests in the disputed domain name. The Respondent has omitted to file a Response despite having expressly mentioned that he would have sent a copy of the documents received from the Center to his US lawyer, and therefore has waived its right to contest the Complainant's allegations.

The Panel is therefore satisfied that the second condition under the Policy is met.

### **C. Registered and Used in Bad Faith**

The Panel agrees with the Complainant that the disputed domain name was registered and has been used in bad faith.

As far as registration is concerned, the Panel finds that the Complainant's trademark is highly distinctive and enjoys wide reputation. The SOLVAY mark is uniquely associated to the Complainant and the disputed domain name reproduces this trademark identically. The additional word "technologies" further demonstrates that the Respondent was aware of the Complainant's trademark at the time of the registration of the disputed domain name as this term refers to the Complainant's activity of "composites technologies". The Respondent is an individual residing in the United States, which is one of the countries where the Complainant operates and has registered its SOLVAY trademark. Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith (see section 3.1.4 of the [WIPO Overview 3.0](#)).

In view of the circumstances of this case, the Panel finds that the Respondent registered the disputed domain name in bad faith.

Concerning use in bad faith, the Panel notes that the disputed domain name leads to a parking page containing pay-per-click links. Most of these links relate to the Complainant and to its activity. This use is certainly not a use in good faith as the Respondent is capitalizing on the reputation of the Complainant's trademark in order to generate undue profit from each link appearing on the parking page. Furthermore, through the links contained in the parking page and referring to the Complainant and to its activity, the Respondent is pursuing a strategy of bad faith, through the impersonation of the Complainant, in order to take unfair advantage of the reputation of the Complainant's trademark and activity, for its undue economic advantage.

Before filing its Complaint, the Complainant tried to solve this matter amicably, by sending the required abuse form with the Registrar directly. However, the Respondent did not take any action to solve the matter at that time. Even more so, when the Respondent received a copy of the Complaint, he informed the Center

that he would have sought the assistance of his lawyer. However, the Respondent did not file a Response, as such expressly waiving any right of defense. In the Panel's view, this is probably because the Respondent himself recognized that the registration and use of the disputed domain name infringed the Complainant's earlier trademark rights.

For all the aforementioned reasons, the Panel concludes that the Respondent has registered and has being using the disputed domain name to intentionally attempted to attract, for commercial gain, Internet users to his web site, by creating a likelihood of confusion with the SOLVAY mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's web site or location.

In light of the above, the Panel finds that also the third and last condition under the Policy has been met.

## **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 <solvaytechnologies.com> be transferred to the Complainant.

*/Angelica Lodigiani/*

**Angelica Lodigiani**

Sole Panelist

Date: October 3, 2022