

## **ADMINISTRATIVE PANEL DECISION**

### **SOLVAY Société Anonyme v. Antoinette Bigot**

### **Case No. D2022-3566**

#### **1. The Parties**

The Complainant is SOLVAY Société Anonyme, Belgium, represented by PETILLION, Belgium.

The Respondent is Antoinette Bigot<sup>1</sup>, Australia.

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

The disputed domain name <solvyfry.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 September 27, 2022. On September 27, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 September 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 amended Complaint on September 28, 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 October 3, 2022. In accordance with the Rules, paragraph

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<sup>1</sup> At the time of filing the Complaint, the relevant Whois information showed a privacy or proxy service, “Withheld for Privacy Purposes, Privacy service provided by Withheld for Privacy ehf”; the Complainant filed an amended Complaint to include the Registrar confirmed underlying registrant, “Antoinette Bigot”. In the present circumstances, the Panel considers the Registrar-confirmed underlying registrant details of the disputed domain name to constitute the concerned Respondent at issue.

5, the due date for Response was October 23, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 26, 2022.

The Center appointed Nayiri Boghossian as the sole panelist in this matter on October 31, 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 operates in the field of materials, chemicals and solutions. It was founded in 1863. The Complainant owns many trademark registrations for SOLVAY such as European Union registration No. 000067801 registered on May 30, 2000.

The disputed domain name was registered by the Respondent on July 16, 2022, and resolves to a parked webpage hosting pay-per-click ("PPC") sponsored links.

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

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

The Complainant contends that the disputed domain name is confusingly similar to a trademark or service mark in which the Complainant has rights. The Complainant owns the trademark SOLVAY and has registered it in many countries. The disputed domain name incorporates the Complainant's trademark in its entirety adding a descriptive term, which does not prevent a finding of confusing similarity. The Complainant's trademark remains recognizable. The generic Top-Level Domain ("gTLD") ".com" can be disregarded.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not commonly known by the disputed domain name. The Complainant did not authorize the Respondent to use its trademark nor granted the Respondent license or permission. There can be no *bona fide* or legitimate use. The disputed domain name incorporates the Complainant's trademark in its entirety and adds the term "fry", which can be associated with the Complainant. The disputed domain name thus impersonates or at least suggests sponsorship or endorsement by the Complainant. Additionally, the disputed domain name resolved to a parked page with sponsored links. It is currently blocked.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. The Respondent must have known of the Complainant and Complainant's trademark for the following reasons:

1. The disputed domain name includes the Complainant's trademark combined with a term that can be associated with the Complainant;
2. The Complainant's trademark has been acknowledged as well-known by prior Panels;
3. A simple search on the Internet would have revealed the Complainant's presence and trademarks; and
4. The Complainant's trademark was registered more than 20 years before the registration of the disputed domain name. Accordingly, the registration was done in bad faith.

The registration of the disputed domain name prevents the Complainant from reflecting its mark in a corresponding domain name and affects the Complainant's business by attracting visitors looking for

information about the Complainant. The mere registration of a domain name which is identical or confusingly similar to a famous or well-known trademark can itself create a presumption of bad faith. The disputed domain name used to resolve to a parking page including PPC links and as such the Respondent could benefit from Internet users visiting his page. It is not possible to imagine a plausible legitimate use of the disputed domain name in view of the well-known and distinctive character of the Complainant's trademark. This is a case of passive holding. The Respondent uses the disputed domain name in an intentional attempt to attract, for commercial gain, Internet users to his website by creating the likelihood of confusion with the Complainant's trademark. Lastly, the Respondent used a privacy service.

## **B. Respondent**

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

## **6. Discussion and Findings**

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

The Complainant owns trademark registrations for SOLVAY. The Panel is satisfied that the Complainant has established its ownership of the trademark SOLVAY.

The disputed domain name comprises the Complainant's trademark SOLVAY in its entirety. The term "fry" does not prevent the fact that the disputed domain name is confusingly similar to the Complainant's trademark. The gTLD ".com" should typically be ignored when assessing confusing similarity as established by prior UDRP decisions.

Consequently, the Panel finds that the disputed domain name is confusingly similar to the trademark of the Complainant and that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

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

Under paragraph 4(a)(ii) of the Policy, a complainant must make at least a *prima facie* showing that a respondent does not have any rights or legitimate interests in the disputed domain name. Once such showing is made, the burden of production shifts to the respondent. In the instant case, the Complainant asserts that the Respondent is not authorized by the Complainant to use its trademark. The Complainant further asserts that the Respondent is not using the disputed domain name for a *bona fide* offering of goods or services, and the Respondent is not commonly known by the disputed domain name. Therefore, the Complainant has established a *prima facie* case and the burden of production shifts to the Respondent to show that it has rights or legitimate interests.

Panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a *bona fide* offering where such links capitalize on the reputation and good will of the complainant's mark. The Panel, pursuant to paragraph 10(a) of the Rules, independently visited the website to which the disputed domain name resolves, more than once. The website contains a variety of PPC links which resolve to different websites offering pest control services, elevators and cleaning services. The Complainant operates in the field of chemicals. Pest control and cleaning services involve the use of chemicals. Accordingly, the Panel is of the view that the Respondent is trying to capitalize on the reputation and good will of the Complainant's mark. In *Legacy Health System v. Nijat Hassanov*, WIPO Case No. [D2008-1708](#), it was found that the Respondent had no rights or legitimate interests as "the sole purpose of the disputed domain name is to resolve to pay-per-click advertising websites and collect click-through revenue from advertising links. Such use demonstrates that the Respondent has used the disputed domain name to derive a commercial benefit. There is no indication on the website that the Respondent has made a bona fide use of the disputed domain name".

The Respondent has not provided any evidence to show that it has any rights or legitimate interests in the disputed domain name. Accordingly, the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

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

The Respondent must have been aware of the Complainant's trademark as it had been registered for more than 20 years when the disputed domain name was created. Also, a simple online search immediately reveals the Complainant's trademark. The disputed domain name resolves to a parked page with sponsored links. Such use here constitutes bad faith. In *Mpire Corporation v. Michael Frey*, WIPO Case No. [D2009-0258](#) the Panel found that "While the intention to earn click-through-revenue is not in itself illegitimate, the use of a domain name that is deceptively similar to a trademark to obtain click-through-revenue is found to be bad faith use."

Such conduct of using a domain name, to attract Internet users for commercial gain, would fall squarely within the meaning of paragraph 4(b)(iv) of the Policy. Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(iii) of the Policy.

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

*/Nayiri Boghossian/*

**Nayiri Boghossian**

Sole Panelist

Date: November 4, 2022