

## **ADMINISTRATIVE PANEL DECISION**

Solvay SA v. Eve ly  
Case No. D2023-0251

### **1. The Parties**

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

The Respondent is Eve ly, Singapore.

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

The disputed domain name <solvaysites.com> is registered with Key-Systems GmbH (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 19, 2023. On January 20, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 23, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on January 23, 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 January 23, 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 January 24, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 13, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 14, 2023.

The Center appointed C. K. Kwong as the sole panelist in this matter on March 6, 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, SOLVAY Société Anonyme (a Belgium company) is the owner of numerous trademarks consisting of or comprising the word SOLVAY. These registrations include:

1. European Union Trade Mark Registration No. 000067801 for the mark SOLVAY registered on May 30, 2000 in respect of goods and services under International Classes 1, 3, 4, 5, 7, 9, 10, 12, 17, 19, 20 and 31;
2. European Union Trade Mark Registration No. 011664091 for the mark SOLVAY registered on August 13, 2013 in respect of goods and services under International 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;
3. International Trademark Registration No. 1171614 for the mark SOLVAY registered on February 28, 2013 in respect of goods and services under International 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 with Singapore included in the designation of countries.

The evidence produced by the Complainant shows its first registration for the mark SOLVAY well before the registration of the disputed domain name <solvaysites.com> on November 15, 2022.

The disputed domain name resolved to webpages containing sponsored links to games and betting websites on January 17, 2023, and website of a school located in China on January 18, 2023 as shown in Annexes 8 and 10 to the Amended Complaint.

Other than the particulars shown in the printout of the database searches conducted by the Complainant on the Whois Database (as provided in Annex 1 to the Amended Complaint) and the webpages shown in Annexes 8 and 10 to the Amended Complaint, there is no evidence concerning the background, businesses or activities of the Respondent.

The Complainant owns the domain name <solvay.com> since 1995, and has used it to refer to its official website and for its internal mailing system.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant has made the following contentions:

The Complainant is a global science company specialized in high performance polymers and composites technologies. It employs more than 21,000 people in 63 countries with a net sale of EUR 10.1 Billion in 2021.

The mark SOLVAY is used extensively, including use on social media and has been ranked within the top 10 most powerful and valuable Belgian brands with the mark's value estimated at EUR 796 Million in 2020.

The disputed domain name <solvaysites.com> incorporates the Complainant's SOLVAY mark in its entirety merely with the addition of the generic expression "sites".

The disputed domain name is confusingly similar to the Complainant's SOLVAY trademark.

The Respondent is named Eve ly and is not commonly known by the disputed domain name. The Respondent's use and registration of the disputed domain name was not authorized by the Complainant.

No actual or contemplated *bona fide* or legitimate use of the disputed domain name could reasonably be claimed by the Respondent.

The Complainant has over 130 production sites all over the world.

The disputed domain name resolves to webpages which do not appear to be genuine. There is no reason for the Respondent to use the Complainant's distinctive SOLVAY mark other than to capitalize on the reputation and goodwill of this mark or otherwise mislead internet users. The Respondent must have known the Complainant and its trademarks at the time of registration of the disputed domain name.

The Complainant and its trademarks are well known in Singapore where the Respondent is located for more than 30 years. A simple search on the internet would have revealed the Complainant's presence, reputation and trademarks.

By registering the disputed domain name, the Respondent prevents the Complainant from reflecting its mark in a corresponding domain name. It also affects the business of the Complainant by attracting visitors looking for information about the Complainant or its products or services marketed under the SOLVAY mark, to the website to which the disputed domain name resolves and creating difficulties for persons doing the search.

Until January 17, 2023, the disputed domain name appeared to refer to a webpage including pay-per-click links (see Annex 8). The Respondent could benefit commercially from that.

The risk of the disputed domain name being used for fraudulent activity cannot be excluded. The Respondent uses the disputed domain name in an attempt to attract, for commercial gain, internet users to a website or other online location by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation or endorsement of the website or location or of a product or service on the website or location.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **A. The naming of party and notice of proceedings**

The Whois Lookup search results provided in Annex 1 to the Amended Complaint showed the name/Admin name/Tech name of the original registrant as Redacted For Privacy.

The answers provided by the Registrar to the Center on January 23, 2023 in response to the Center's request for Registrar Verification disclosed the identity of the current Registrant of the disputed domain name as Eve ly.

The Complainant accordingly filed an Amended Complaint to identify and replace the former registrant with Eve ly named as Respondent on January 23, 2023 following the said verification particulars provided by the Registrar.

On January 24, 2023, the Center forwarded the Notification of Complaint and Commencement of Administrative Proceedings to the contact details of the Respondent, including those found in the Amended Complaint, Whois, and Registrar Verification. The said notification was sent by post/courier, facsimile and email as per the contact particulars so provided with copies to the Registrar.

In the circumstances, the Panel finds that the proper Parties to these proceedings have been named and notified. As long as the Complainant or the Center as the case may be communicated with the Respondent using the contact information which the Respondent have chosen to provide to the Registrar as reflected in the above contact details, their respective notice obligations will be discharged and the Respondent is bound accordingly.

The Panel is satisfied that the Center has discharged its responsibility under paragraph 2(a) of the Rules to employ reasonably available means calculated to achieve actual notice to the Respondent of the Complaint and that the failure of the Respondent to furnish a reply is not due to any omission or inadequate communication by the Center.

## **B. The Three Elements**

In rendering its decision, the Panel must adjudicate the dispute in accordance with paragraph 15(a) of the Rules which provides that, “the Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”. Paragraph 14(b) of the Rules further provides that, “[i]f a Party, in the absence of exceptional circumstances, does not comply with any provisions of, or requirement under, these Rules or any requests from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate”. Paragraph 5(e) of the Rules further provides that, “if a Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the complaint”.

The failure of the Respondent to respond does not automatically result in a favourable decision for the Complainant, which is specifically required under paragraph 4(a) of the Policy to establish each of the three elements as provided therein. See *The Vanguard Group, Inc. v. Lorna Kang*, WIPO Case No. [D2002-1064](#) and *Berlitz Investment Corp. v. Stefan Tinculescu*, WIPO Case No. [D2003-0465](#).

The said three elements are considered below.

### **1. Identical or Confusingly Similar**

On the evidence available, the Panel has no hesitation in finding that the Complainant has rights in the trademark SOLVAY by reason of the trademark registrations recited in Section 4 above.

Furthermore, the Panel finds that the disputed domain name is confusingly similar to the Complainant’s trademark SOLVAY. The dominant component of the disputed domain name is the Complainant’s SOLVAY trademark. The addition of the indistinctive expression “sites” as suffix does not prevent the disputed domain name from being confusingly similar to the Complainant’s trademark SOLVAY, as it remains clearly recognizable in the disputed domain name.

It is well-established practice to disregard the gTLD part of a domain name, such as “.com”, when assessing whether a domain name is identical or confusingly similar to the mark in issue. *Société Anonyme des Eaux Minérales d’Evian and Societe des Eaux de Volvic v. Beroca Holdings B.V.I. Limited*, WIPO Case No. [D2008-0416](#).

Accordingly, the Panel finds that the first element of paragraph 4(a) of the Policy is established.

### **2. Rights or Legitimate Interests**

The Complainant needs to establish a *prima facie* case showing that the Respondent has no rights or legitimate interests in respect of the disputed domain name. See *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#). Once such *prima facie* case is made, the burden will shift to the Respondent to prove that it has rights or legitimate interests in the disputed domain name.

The Complainant has confirmed that it has not authorized, licensed, or permitted the Respondent to use the mark SOLVAY.

There is no explanation on the record as to why it was necessary for the Respondent to adopt the term “solvay” in the disputed domain name.

There is no evidence before the Panel to suggest that the Respondent is commonly known as <solvaysites.com>.

There is also no evidence available to demonstrate any legitimate noncommercial or fair use of the disputed domain name by the Respondent. Moreover, given the likely commercial revenue derived from the links found at the disputed domain name, the Respondent cannot claim to be using the confusingly similar disputed domain name for a noncommercial or *bona fide* offering of goods or services.

The Complainant has put forward a very strong *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, which has not been rebutted by the Respondent.

Accordingly, the Panel is satisfied that the Respondent has no rights or legitimate interests in the disputed domain name.

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

The Complainant has registered its SOLVAY trademark since at least 2000 with an extension to Singapore and has been using it long before the registration of the disputed domain name by the Respondent.

The incorporation of the rather unique distinctive invented word “solvay” as part of the disputed domain name without any explanation under the above circumstances and the prior substantial use of the Complainant’s SOLVAY mark lead to the conclusion that the Respondent must have been aware of the existence of the Complainant and its trademark SOLVAY at the time of the registration and use of the disputed domain name.

The disputed domain name has also been used in the context as described above as shown in Annex 8 to the Amended Complaint showing pay-per-click links. The use of the disputed domain name disrupts the Complainant’s business by directing internet users to gaming, betting or irrelevant websites. The Panel finds that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to said website, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the website or products on the said website.

The Panel finds that the circumstances under paragraph 4(b)(iii) and (iv) of the Policy have been established. Accordingly, the Panel finds that the disputed domain name has been registered and is being used in bad faith under 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 <solvaysites.com> be transferred to the Complainant.

/C. K. Kwong/

**C. K. Kwong**

Sole Panelist

Date: March 20, 2023