

ADMINISTRATIVE PANEL DECISION

Solvay SA v. Vanita Zano
Case No. D2023-0911

1. The Parties

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

The Respondent is Vanita Zano, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <solvayflochemicals.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 March 1, 2023. On March 1, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 1, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 2, 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 March 2, 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 March 3, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 23, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 24, 2023.

The Center appointed Theda König Horowicz as the sole panelist in this matter on April 4, 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 is a global science company specialised in high-performance polymers and composites technologies, and a leader in chemicals which was founded in 1863. The Complainant is headquartered in Belgium and is active worldwide.

The Complainant is the owner of several trademarks for the word mark SOLVAY, including:

- European Union trademark registration No. 000067801 registered on May 30, 2000, in international classes 1, 3-5, 7, 9, 10, 12, 17, 19, 20, and 31.
- International registration No. 1171614, of February 28, 2013, registered in international classes 1-5, 7, 9, 10, 12, 17, 19, 22-25, 30, 31, 34-37, 39, 40, and 42 and covering the United States.

The Complainant has also been the owner of the domain name <solvay.com> since 1995 which resolves to its official website and which is used for its internal mailing system.

The disputed domain name was registered on February 20, 2023. At the time of the filing of the Complaint, the disputed domain name resolved to a registrar parking page with sponsored links, including links referring to Complainant's business and that the email function to the disputed domain name has been enabled.

5. Parties' Contentions

A. Complainant

The Complainant alleges that its SOLVAY trademark is well known throughout the world, both thanks to the Complainant's international presence and to its marketing investments. The SOLVAY trademark is used extensively by the Complainant, including on social media. The disputed domain name is identical to the SOLVAY trademark, which is registered and used in many countries including the United States where the Respondent is based. The disputed domain name incorporates the Complainant's SOLVAY mark in entirety and simply adds the descriptive word "chemicals" and the three letters "flo". The SOLVAY trademark remains however clearly recognizable. The addition of the ".com" generic Top-Level Domain ("gTLD") can be disregarded.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the Domain Name. The Respondent is not commonly known by the disputed domain name which is notably evidenced by the fact that he used a privacy/proxy service when registering it. Furthermore, the Respondent has not acquired trademark or service mark rights and the Respondent's use and registration of the Domain Name was not authorized by the Complainant. In the absence of any license or permission from the Complainant to use the trademark, no actual or contemplated *bona fide* or legitimate use of the Domain Name could reasonably be claimed. The Complainant further alleges that there is a high risk of implied affiliation as the disputed domain name incorporates the distinctive and well-known trademark and company name of the Complainant in its entirety. The addition of the letters "flo" are irrelevant and the addition of the term "chemicals" actually suggests sponsorship or endorsement by the Complainant and cannot constitute *bona fide* or even fair use. The disputed domain name resolves to a registrar parking page with sponsored links including links referring to Complainant's business. Such links capitalize on the reputation and goodwill of the Complainant's trademark.

The Respondent registered and is using the Domain Name in bad faith. At the time of registration of the disputed domain name, the Respondent must have known the Complainant and its well-known trademark which is notably registered in the United States, the country where the Respondent is located. In addition, the Complainant has offices in the United States and a simple search on the internet prior to the registration of the disputed domain name would have disclosed this basic information to the Respondent. The Complainant states that the disputed domain name is used in bad faith notably for the following reasons:

- (i) the Respondent prevents the Complainant from reflecting its trademark in a corresponding domain name
- (ii) the disputed domain name contains Complainant's well-known SOLVAY trademark
- (iii) the disputed domain name resolved to a registrar parking page including pay-per-click links relating to the Complainant's business.

In this context, the Complainant underlines that it is impossible to conceive any plausible legitimate use of the disputed domain name, especially in view of the global reach of the Complainant and the distinctive character of its SOLVAY trademark.

B. Respondent

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

6. Discussion and Findings

According to paragraph 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, these Rules, and any rules and principles of law that it deems applicable.

Paragraph 4(a) of the Policy directs that a complainant must prove each of the following:

- (i) that the domain name registered by the respondent is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (ii) that the respondent has no rights or legitimate interests in respect of the domain name; and
- (iii) that the domain name has been registered and is being used in bad faith.

Paragraph 4(a) of the Policy states that the burden of proving that all these elements are present lies with the Complainant. At the same time, in accordance with paragraph 14(b) of the Rules, if a party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, the Rules, or any request from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate.

A. Identical or Confusingly Similar

The Complainant has shown to have obtained trademark rights in SOLVAY in many jurisdictions including in the United States where the Respondent is reportedly based.

According to section 1.7 of the 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 complainant's trademark and the disputed domain name. This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name. In cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing.

The Panel finds that the disputed domain name is confusingly similar to the Complainant's registered trademark SOLVAY since it contains the mark in entirety. The addition of the term "chemicals" and the letters "flo" in the disputed domain name does not prevent a finding of confusing similarity. See section 1.8 of the [WIPO Overview 3.0](#).

Furthermore, the gTLD “.com” is a standard registration requirement and as such is typically disregarded under the first element confusing similarity test. See section 1.11.1 of the [WIPO Overview 3.0](#).

The Panel therefore finds that the conditions in paragraph 4(a)(i) of the Policy are fulfilled in relation to the disputed domain name.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy contains a non-exhaustive list of circumstances that may demonstrate when a respondent has rights or legitimate interests in a domain name. The list includes:

- (i) the use of the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) being commonly known by the domain name; or
- (iii) the making of a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers.

Once the Complainant establishes a *prima facie* case against the Respondent under this ground, the burden of production shifts to the Respondent to rebut it. See section 2.1 of the [WIPO Overview 3.0](#).

The Complainant has made sufficient statements in order to demonstrate that the Respondent has no rights or legitimate interests in the disputed domain name.

In particular, the Complainant has not licensed or otherwise permitted the Respondent to use its trademark. There is no evidence showing that the Respondent would be commonly known by the disputed domain name or that a legitimate business would be run by the Respondent under the disputed domain name which resolves to a parking page featuring sponsored pay-per-click links that capitalize on the reputation and goodwill of the Complainant's mark.

The Panel therefore finds that the Complainant has established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name and the burden of production shifts to the Respondent who has chosen not to reply.

The Respondent has not rebutted the Complainant's *prima facie* case, and there is no evidence of the types of circumstances set out in paragraph 4(c) of the Policy that might give rise to rights or legitimate interests in the disputed domain name on the part of the Respondent in the proceeding.

Furthermore, the disputed domain name combines the trademark SOLVAY in entirety with the additional term “chemicals” which refers to Complainant's field of activity. The disputed domain name thus carries a risk of implied affiliation. See section 2.5.1 of the [WIPO Overview 3.0](#).

The Panel therefore finds that the conditions in paragraph 4(a)(ii) of the Policy are fulfilled in relation to the disputed domain name.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy requires the complainant to prove both registration and use of the domain name in bad faith. Paragraph 4(b) of the Policy provides examples of circumstances which shall be evidence of registration and use in bad faith:

- (i) circumstances indicating that the respondent has registered or has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the holder's documented out-of-pocket costs directly related to the domain name; or

- (ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the holder has engaged in a pattern of such conduct; or
- (iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to the holder's respondent's 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 holder's respondent's website or location or of a product or service on the holder's respondent's website or location.

Accordingly, for the Complainant to succeed, the Panel must be satisfied that the disputed domain name was registered and are being used in bad faith.

Given the circumstances of the case, including the distinctive nature of the Complainant's trademark SOLVAY, which is widely used by the Complainant including in the United States where the Respondent is reportedly located, it is inconceivable to the Panel that the Respondent registered the disputed domain name without prior knowledge of the Complainant and the Complainant's marks, including the trademark SOLVAY.

Further, the Panel finds that the Respondent could not have been unaware of the fact that the chosen disputed domain name could attract Internet users in a manner that is likely to create confusion for such users.

The Panel therefore finds that the disputed domain name was registered in bad faith.

The disputed domain name currently resolves to an inactive website, but the Complainant established that it was linked to a parking page when filing the Complaint. Some links were referring to Complainant's field of activity.

There is no evidence in the record of a legitimate use of the disputed domain name. Furthermore, the trademarks of the Complainant are widely used and known. The Respondent has provided no evidence of actual or contemplated good-faith use of the disputed domain name and the Panel does not find any such use plausible.

The registration of the disputed domain name via a proxy service and the silence of the Respondent in the proceeding is an additional evidence of bad faith in these circumstances.

Moreover, previous UDRP panels have consistently found that the mere registration of a domain name that is confusingly similar to a famous or widely-known trademark (particularly domain names incorporating the mark plus a descriptive term) by an unaffiliated entity can by itself create a presumption of bad faith. See section 3.1.4 of the [WIPO Overview 3.0](#).

The Panel therefore finds that the conditions in paragraph 4(a)(iii) of the Policy is fulfilled in relation to the disputed domain name.

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, <solvayflochemicals.com>, be transferred to the Complainant.

/Theda König Horowicz/
Theda König Horowicz
Sole Panelist
Date: April 24, 2023