

ADMINISTRATIVE PANEL DECISION

Solvay S.A. v. Elad Gil
Case No. DAI2024-0027

1. The Parties

The Complainant is Solvay S.A., Belgium, represented by Novagraaf Belgium NV/SA, Belgium.

The Respondent is Elad Gil, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <solvay.ai> is registered with 1API GmbH (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 21, 2024. On March 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 27, 2024, 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 (Name redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 18, 2024, 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 April 22, 2024.

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 April 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 13, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 20, 2024.

The Center appointed Gill Mansfield as the sole panelist in this matter on May 24, 2024. 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 S.A., is a science company specialising in chemicals and materials such as high performance polymers and composite technologies providing solutions in many sectors including agriculture, personal care, healthcare, consumer food, automotive, aerospace, and electronics. The Complainant was founded in 1863, is headquartered in Brussels with offices and production sites in more than 60 countries, employing around 22,000 people (in 2022). The Complainant's net sales reached EUR 13.4 billion in 2022.

The Complainant is the owner of a large portfolio of trademark registrations worldwide many of which contain the word SOLVAY, including inter alia the following:

- European Union trademark registration number 000067801 for SOLVAY (word mark), registered on May 30, 2000, in classes 1, 3, 4, 5, 7, 9, 10, 12, 17, 19, 20, and 31;
- European Union trademark registration number 011664091 for SOLVAY (word mark), registered on August 13, 2013, in classes 1, 2, 3, 4, 5, 7, 9, 10, 12, 17, 22, 23, 24, 25, 30, 31, 35, 36, 37, 40, and 42;
- International trademark registration number 1171614 for SOLVAY (word mark) registered on February 28, 2013, 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
- United States trademark registration number 2770637 for SOLVAY (word mark), filed on September 26, 2000, and registered on October 7, 2003, in classes 1, 5, 17, and 31.

The Complainant is the owner of domain names that include the mark SOLVAY. These include <solvay.com> which was registered in 1995, <solvay.us>, <solvay.be> and other country code Top-Level Domains ("ccTLDs") worldwide.

The disputed domain name was registered on March 8, 2024, and does not resolve to an active website.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name <solvay.ai> is identical to its trademark as it reproduces the Complainant's trademark SOLVAY in its entirety followed by the ccTLD ".ai". The Complainant contends that by using SOLVAY in the disputed domain name, the Respondent creates confusion as consumers may believe that this disputed domain name refers to the Complainant.

Further, the Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant states that to the best of its knowledge the Respondent has not been commonly known by the disputed domain name and does not own any trademark corresponding to the disputed domain name. Furthermore, the Complainant has never licensed or otherwise authorized the Respondent to use its trademark or any domain name using the trademark SOLVAY.

In addition, the "www.solvay.ai" website is not currently in use, which the Complainant contends shows that the Respondent is not using the disputed domain name in connection with a bona fide offering of goods and services.

Finally, the Complainant submits that the disputed domain name was registered and is being used in bad faith. The Complainant points to the worldwide reputation in the trademark and it submits that it is not conceivable that the Respondent did not have in mind the Complainant's trademarks when registering the disputed domain name. The Complainant also refers to previous panel decisions in support of the position that the mere registration of a domain name that is identical or confusingly similar to a widely-known trademark by an unaffiliated entity can create a presumption of bad faith. They further contend that the fact

that the disputed domain name does not resolve to an active website does not preclude a finding of bad faith.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant carries the burden of proving:

- (i) that the disputed domain name 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 disputed domain name, and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

Under paragraph 4(a)(i) of the Policy, the Complainant must prove that it has rights in a trademark or service mark and that the disputed domain name is identical or confusingly similar to that mark.

It is well accepted that this first element of the test functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.

Having reviewed the available record, the Panel finds that the Complainant has shown rights in a trademark or service mark for the purposes of the Policy ([WIPO Overview 3.0](#), section 1.2.1).

The entirety of the Complainant's trademark SOLVAY is reproduced within the disputed domain name <solway.ai>. Accordingly, the disputed domain name is identical to the trademark for the purposes of the Policy ([WIPO Overview 3.0](#), section 1.7).

The Panel notes that the applicable TLD in a domain name is viewed as a standing registration requirement and as such is disregarded under the first element confusing similarity test ([WIPO Overview 3.0](#), section 1.11.1). This practice of disregarding the TLD in determining whether a disputed domain name is identical or confusingly similar to the trademark is applied irrespective of the particular TLD ([WIPO Overview 3.0](#), section 1.11.2).

Consequently, the Panel finds that the disputed domain name is identical to the Complainant's trademark and that the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in the disputed domain name ([WIPO Overview 3.0](#), section 2.1):

- (i) before any notice of the dispute, the respondent's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods and services; or

(ii) the respondent (as an individual, business, or other organization) has been commonly known by the 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 domain name, without intent for commercial gain or to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

Although the overall burden of proof in UDRP proceedings is on the complainant, UDRP panels have recognized that proving that a respondent lacks rights or legitimate interests in a domain name may result in an impossible task of “proving a negative” and requiring information that is primarily within the knowledge and control of the respondent. As such where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence. If the respondent fails to come forward with such relevant evidence the complainant is deemed to have satisfied the second element.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. It states that to the best its knowledge the Respondent has not been commonly known by the disputed domain name and does not own any trademark corresponding to the disputed domain name. Furthermore, the Complainant has never licensed or otherwise authorised the Respondent to use its trademark or any domain name using the trademark SOLVAY.

Having reviewed the available record, the Panel finds that the Respondent has not used and is not using the disputed domain name in connection with a bona fide offering of goods and services as the disputed domain name does not resolve to an active website.

In the circumstances, the Panel finds that the Complainant has made out a prima facie case that the Respondent lacks rights and legitimate interests in the disputed domain name. Noting that the Respondent has failed to respond to the Complaint or to present any evidence either rebutting the Complainant’s submissions or asserting any rights or legitimate interests, the Panel finds that the Respondent lacks any rights or legitimate interests in the disputed domain name.

Further, the Panel finds that as the disputed domain name is identical to the Complainant’s trademark there is a high risk of implied affiliation with the Complainant ([WIPO Overview 3.0](#), section 2.5.1).

The Panel finds that the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Under paragraph 4(a)(iii) of the Policy, the Complainant must prove that the disputed domain name was registered and is being used in bad faith.

Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith ([WIPO Overview 3.0](#), section 3.1.4).

As set out above, the disputed domain name is identical to the trademark of the Complainant. Based on the available record, the Panel finds that the Complainant’s trademark has a worldwide reputation and is widely-known for the purposes of the Policy.

The Complainant has submitted that it is not conceivable that the Respondent did not have in mind the Complainant’s trademark when registering the disputed domain name. In view of the worldwide reputation of the Complainant’s trademark, the Panel agrees and is satisfied that the disputed domain name has been registered in bad faith.

The record shows that the disputed domain name does not resolve to an active website. However, the Panel notes that UDRP panels have repeatedly found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding ([WIPO Overview 3.0](#), section 3.3).

Given the degree of distinctiveness of the Complainant's trademark and the reputation in the Complainant's widely-known trademark, the lack of the Respondent's own rights or legitimate interests in the disputed domain name, the failure of the Respondent to submit a response to the Complaint or to provide any explanation for the choice of the disputed domain name or evidence of any actual or proposed good faith use, the Panel finds that, in all of the circumstances of the case, the passive holding of the disputed domain name does not prevent a finding of bad faith under the policy.

In view of the above, the Panel finds that the third element of the Policy has been established.

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, <solvay.ai>, be transferred to the Complainant.

/Gill Mansfield/

Gill Mansfield

Sole Panelist

Date: June 7, 2024