

ADMINISTRATIVE PANEL DECISION

SOLVAY Société Anonyme v. Garrett Stott

Case No. D2023-3023

1. The Parties

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

The Respondent is Garrett Stott, United Arab Emirates.

2. The Domain Names and Registrar

The disputed domain names <solevay.com> and <solvay-it.com> are registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 14, 2023. On July 14, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On July 14, 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 (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 18, 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 July 18, 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 July 25, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 14, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 21, 2023.

The Center appointed Louis-Bernard Buchman as the sole panelist in this matter on August 29, 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 Belgian company founded in 1863, headquartered in Brussels, which produces high-performance polymers and is a chemical industry leader, particularly in composites technologies, with about 22,000 employees in 61 countries. Its turnover in 2022 was EUR 13,4 billion.

The Complainant owns a portfolio of registered trademarks containing the term “solvay”, including the SOLVAY European Union trademark No. 0000678011, registered on May 30, 2000, the SOLVAY international trademark No. 1171614, registered on February 28, 2013 and the SOLVAY European Union trademark No. 011664091, registered on August 13, 2013 (together hereinafter referred to as “the Mark”).

The Complainant owns *inter alia* the <solvay.com> domain name, registered in 1995, resolving to its main website, and the <solvay.it> domain name, registered in 2000 (the latter giving access to a dedicated website for Italy, where the Complainant operates since 1912 and where it currently has six production sites).

The disputed domain name <solevay.com> was registered on June 26, 2023, and the disputed domain name <solvay-it.com> was registered on June 28, 2023. At the date of filing of the Complaint and this Decision, both resolve to an error page.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain names reproduce the Mark, in which it has rights, and are confusingly similar to the Mark insofar as the disputed domain name <solevay.com> is a typosquatted version of the Mark with the addition of only one letter “e” in the middle, and the disputed domain name <solvay-it.com> contains the Mark in its entirety with the addition of a hyphen and the geographical term “it” (for Italy). These differences are alleged not to be capable of dispelling the confusing similarity, as the Mark remains recognizable in the disputed domain names.

The Complainant also contends that the Respondent has no rights or legitimate interests in respect of the disputed domain names and never had any affiliation with the Complainant (which never authorized the Respondent to use the Mark in any manner).

Furthermore, the Complainant contends that the Respondent had knowledge of the Mark, which is well known, and that it registered the disputed domain names in bad faith, and is also using them in bad faith.

B. Respondent

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

6. Discussion and Findings

6.1. Procedural Aspects – Failure to respond

As aforementioned, no Response was received from the Respondent.

Under the Rules, paragraphs 5(f) and 14(a), the effect of a default by the Respondent is that, in the absence of exceptional circumstances, the Panel shall proceed to a decision on the basis of the Complaint.

The Panel does not find any exceptional circumstance in this case which would cause the Panel to proceed differently.

Under paragraph 4(a) of the Policy, it is the Complainant's burden to establish that all three of the required criteria for a transfer of the disputed domain names have been met, even in the event of a default.

Under paragraph 14(b) of the Rules, the Panel is empowered to draw such inferences from the Respondent's default as it considers appropriate under the circumstances.

In this case, the Panel finds that as a result of the default, the Respondent has failed to rebut any of the reasonable factual assertions that are made and supported by evidence submitted by the Complainant. In particular, by defaulting and failing to respond, the Respondent has failed to offer the Panel any of the types of evidence set forth in paragraph 4(c) of the Policy or otherwise, from which the Panel might conclude that the Respondent has any rights or legitimate interests in the disputed domain names, such as making legitimate noncommercial or fair use of the disputed domain names.

Moreover, as discussed below, the Respondent has failed to provide any exculpatory information or reasoning that might have led the Panel to question the Complainant's arguments that the Respondent has acted in bad faith.

6.2. Requirements of paragraph 4(a) of the Policy

A. Identical or Confusingly Similar

It is well accepted that the first element 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 names. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

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

The Panel finds that the Mark is recognizable within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of another term in the disputed domain name <solway-it.com>, such as "-it", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between this disputed domain name and the Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Regarding the generic Top-Level Domain ("gTLD") ".com" in the disputed domain names, it is well established that a gTLD does not generally affect the assessment of a domain name for the purpose of determining identity or confusingly similarity. [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, the Panel finds 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 a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of “proving a negative”, requiring information that is often primarily within the knowledge or 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 demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names. The Respondent has not rebutted the Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise.

Based on the available record, the Panel finds that the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Panel notes that the Respondent has engaged in a pattern of bad faith conduct, insofar as it has registered, in addition to the disputed domain names in this instance, at least one other domain name which has been found to be an abusive registration (see *British American Tobacco (Brands) Limited v. Garrett Stott*, WIPO Case No. [D2022-3636](#)).

Moreover, panels have found that the non-use of a domain name (including a blank or “coming soon” page) would not prevent a finding of bad faith under the doctrine of passive holding.

Having reviewed the record, the Panel finds the non-use of the disputed domain names does not prevent a finding of bad faith in the circumstances of this proceeding.

While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put. [WIPO Overview 3.0](#), section 3.3.

Having reviewed the record, the Panel notes the Mark’s reputation (see below), the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, the fact that the Respondent concealed its identity by using a privacy service and provided false contact details and the implausibility of any good faith use to which the domain name may be put, and consequently finds that in the circumstances of this case the passive holding of the misleading disputed domain names does not prevent a finding of bad faith under the Policy.

In particular, as regards the Mark’s degree of distinctiveness or reputation, several prior UDRP panels have held that the Mark is well known (see for instance *Solvay Société Anonyme v. Anonymous Domain*

Registration Service, WIPO Case No. [D2023-0656](#); *Solvay SA v. Name Redacted*, WIPO Case No. [D2023-0235](#); *Solvay SA v. jugs logs*, WIPO Case No. [D2023-0493](#); *SOLVAY Société Anonyme v. Privacy Service Provided by Withheld for Privacy ehf / Gary Reid*, WIPO Case No. [D2022-2586](#); *SOLVAY Société Anonyme v. Not disclosed Not disclosed, MRSOFT Consults*, WIPO Case No. [D2021-4278](#); *Solvay SA v. WhoisGuard Protected, WhoisGuard, Inc. / Thomas Hutton, Thomas LLC*, WIPO Case No. [D2020-1553](#); *Solvay S.A. v. Registration Private, Domains By Proxy, LLC / Alix Deschamps*, WIPO Case No. [D2015-0689](#) and *Solvay SA v. Domain Privacy Service Fbo Registrant / Mary Koehler*, WIPO Case No. [D2016-1357](#)).

Considering the Mark's reputation and the size of the Complainant's current operations, the Panel finds it impossible that the Respondent chose to register the disputed domain names randomly with no knowledge of the Mark. See *Barney's Inc. v. BNY Bulletin Board*, WIPO Case No. [D2000-0059](#); *Kate Spade, LLC v. Darmstadter Designs*, WIPO Case No. [D2001-1384](#), citing *Cellular One Group v. Paul Brien*, WIPO Case No. [D2000-0028](#); and *Sembcorp Industries Limited v. Hu Huan Xin*, WIPO Case No. [D2001-1092](#).

Finally, some UDRP panels have held that in certain circumstances, registrants of domain names have a duty to abstain from registering and using a domain name, which is either identical or confusingly similar to a prior trademark held by others and which would infringe upon or otherwise violate the rights of a third party.

See Policy, paragraph 2(b); *Nike, Inc. v. Ben de Boer*, WIPO Case No. [D2000-1397](#); *Nuplex Industries Limited v. Nuplex*, WIPO Case No. [D2007-0078](#); *Mobile Communication Service Inc. v. WebReg, RN*, WIPO Case No. [D2005-1304](#); *BOUYGUES v. Chengzhang, Lu Ciagao*, WIPO Case No. [D2007-1325](#); *Media General Communications, Inc. v. Rarenames, WebReg*, WIPO Case No. [D2006-0964](#); and *mVisible Technologies, Inc. v. Navigation Catalyst Systems, Inc.*, WIPO Case No. [D2007-1141](#).

Based on the available record, 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 names, <solevay.com> and <solvay-it.com>, be transferred to the Complainant.

/Louis-Bernard Buchman/

Louis-Bernard Buchman

Sole Panelist

Date: September 7, 2023