

ADMINISTRATIVE PANEL DECISION

Solvay S.A. v. brent jones
Case No. D2023-4915

1. The Parties

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

The Respondent is brent jones, United States of America.

2. The Domain Name and Registrar

The disputed domain name <finance-solvay.com> is registered with Hostinger Operations, UAB (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 27, 2023. On November 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 28, 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 Protect, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 4, 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 December 8, 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 December 12, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 1, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 2, 2024.

The Center appointed Philippe Gilliéron as the sole panelist in this matter on January 17, 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 is a chemical company which provides solutions and applications in many sectors such as agriculture, personal care, healthcare, consumer food, automotive, aerospace or electronics.

Founded in 1863, the Complainant has offices in more than 60 countries, employed around 22,000 people. In 2022, its net sales reached around 13,4 billion euros.

The Complainant owns numerous trademarks on a worldwide basis consisting in whole or in part of the word SOLVAY, such as:

- European Union TM registration n° 011664091 related to the word mark SOLVAY, filed on March 18, 2013 and registered on August 13, 2013, in numerous classes of the Nice Classification;
- European Union TM registration n° 000067801 related to the word mark SOLVAY, filed on April 1, 1996 and registered on May 30, 2000 in numerous classes of the Nice Classification;
- International TM registration n° 1171614 related to the word mark SOLVAY, registered on February 28, 2013, in numerous classes of the Nice Classification.

The Complainant further owns numerous domain names consisting in whole or in part of the word SOLVAY, including <solway.com> since 1995.

On October 13, 2023, the Respondent registered the disputed domain name. The disputed domain name is used and hosts a parking page consisting of pay-per-click links.

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.

The Complainant first considers that the disputed domain name is confusingly similar to its trademark SOLVAY as it entirely incorporates such trademark.

The Complainant then affirms that the Respondent has no rights or legitimate interests in the disputed domain name as he is not commonly known under the name Solvay, does not own any corresponding trademark and have never been licensed or authorized by the Complainant in any way to use its trademark SOLVAY.

The Complainant finally is of the view that the disputed domain name was registered and is being used in bad faith. Taking into account the strong reputation enjoyed by the trademark SOLVAY, the Respondent could not ignore the existence of the Complainant's prior rights. The Respondent's choice to opt for a highly regarded trademark as a domain name and to use it to host a parking page is an evidence of a use in bad faith.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs this Panel to “[...] 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.”

Pursuant to paragraph 4(a) of the Policy, the Complainant must prove each of the following three elements to obtain an order that the disputed domain name should be cancelled or transferred:

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

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 name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[WIPO Overview 3.0](#)”), section 1.7.

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 entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of the other term, “finance”, 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 the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds 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.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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 available record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. 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 name such as those enumerated in the Policy or otherwise.

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

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Bad faith requires the Respondent to be aware of the Complainant's trademarks. In the present case, the Complainant owns numerous SOLVAY trademarks, which enjoy a strong reputation as acknowledged by prior panels (*Solvay SA v. Name Redacted*, WIPO Case No. [D2023-0235](#)). As a result, there is no doubt that the Respondent was well aware of the SOLVAY trademark when it registered the disputed domain name.

The fact that the disputed domain name hosts a parking page consisting of pay-per-click links, some of them related to the Complainant's business, is evidence that the Respondent is trying to benefit from the goodwill associated with the Complainant's trademark. Such use has been held as a use in bad faith on numerous occasions (*Bayrische Motoren Werke AG v. bmwriders llc*, WIPO Case No. [D2008-0610](#); *Roust Trading Ltd v. AMG LLC*, WIPO Case No. [D2007-1857](#)), as well as the use of a privacy service ([WIPO Overview 3.0](#), section 3.6).

The Panel finds that the Complainant has established the third element 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 <finance-solvay.com> be transferred to the Complainant.

/Philippe Gilliéron/

Philippe Gilliéron

Sole Panelist

Date: January 31, 2024