

## **ADMINISTRATIVE PANEL DECISION**

Survicate S.A. v. Survey Communicate  
Case No. D2025-4035

### **1. The Parties**

The Complainant is Survicate S.A., Poland, internally represented.

The Respondent is Survey Communicate, Poland.

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

The disputed domain name <survicate.net> (the “Domain Name”) 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 October 2, 2025. On October 3, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On October 3, 2025, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 6, 2025, providing the registrant and contact information disclosed by the Registrar, and requesting that the Complainant submit an amended Complaint. The Complainant filed an amended Complaint on October 15, 2025.

The Center verified that the Complaint together with the amendment to 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 October 16, 2025. In accordance with the Rules, paragraph 5, the due date for Response was November 5, 2025. The Respondent did not submit any response by the prescribed deadline. Accordingly, the Center notified the Respondent’s default on November 7, 2025.

The Center appointed Piotr Nowaczyk as the sole panelist in this matter on November 11, 2025. 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.

On November 12, 2025, the Respondent submitted a late Response, which the Center acknowledged on the same day.

#### **4. Factual Background**

The Complainant is a company that has provided Software-as-a-Service (SaaS) survey solutions to clients internationally since 2013, offering tools that enable businesses to create and analyze customer-feedback surveys across multiple channels. The Complainant promotes its services through its official domain name <survicate.com>.

The Complainant is the owner of the SURVIVATE trademark registrations, including:

- the European Union Trade Mark Registration for SURVIVATE (figurative) No. 018493853, registered on December 7, 2021; and
- the United States of America Trademark Registration for SURVIVATE (figurative) No. 7464538, registered on August 6, 2024.

The Domain Name was registered on March 22, 2025.

The Complainant has provided evidence that the Domain Name previously resolved to a website that reproduced or cloned the Complainant's official website (the "Website").

Moreover, the evidence in the case file shows that the Complainant contacted the registrant of the Domain Name to inquire about the possibility of purchasing it and to request a price. In addition, after the Complainant reported the Domain Name to the hosting provider for alleged trademark infringement, the provider forwarded a counter-notification from the registrant of the Domain Name stating that the Website was noncommercial, and was not actively operated, and that the registrant of the Domain Name would not change the Website interface but would find someone to replace or close it .

As of the date of this Decision, the Website displays a contemplative message about universal interconnection. It also indicates that the Website is being updated.

#### **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 Domain Name.

First, the Complainant contends that the Domain Name is identical or confusingly similar to the trademark in which the Complainant has rights.

Second, the Complainant argues that the Respondent has neither rights nor legitimate interests in the Domain Name. The Complainant asserts that the Respondent used the Domain Name to impersonate the Complainant by operating a fraudulent clone Website, which cannot confer any rights or legitimate interests.

Third, the Complainant submits that the Domain Name was registered and is being used in bad faith. The Complainant reiterates that the Website has replicated the Complainant's official site and that the Respondent demanded USD 100,000 for the transfer of the Domain Name.

## **B. Respondent**

In its late Response, the Respondent contends that the Complainant has not satisfied the elements required under the Policy for a transfer of the Domain Name.

First, the Respondent does not contest that the Domain Name is confusingly similar to the Complainant's trademark.

Second, the Respondent argues that it has rights and legitimate interests in the Domain Name. The Respondent claims the Domain Name was used only for noncommercial, educational and personal learning, and has never been used for business or financial gain, or public promotion of any product or service, and therefore constitutes a legitimate interest. Moreover, the Respondent has never claimed affiliation with the Complainant, nor has the Respondent conducted any deceptive or fraudulent activity.

Third, the Respondent denies that the Domain Name was registered and is being used in bad faith. The Respondent asserts there is no evidence of bad faith registration or use, states that all content was removed upon notice, and maintains that the price quoted was merely a negotiation response after the Complainant initiated contact. The Respondent has never earned any money through the disputed domain name, and no commercial activities have been conducted.

## **6. Discussion and Findings**

### **6.1. Preliminary Matter: Late Response**

The due date for the Response was November 5, 2025. The Response was filed with the Center on November 12, 2025.

Pursuant to paragraph 14(a) of the Rules, in the event that a Party, in the absence of exceptional circumstances, does not comply with any of the time periods established by these Rules or the Panel, the Panel shall proceed to a decision on the complaint. The Panel may therefore consider the Respondent's late Response in its discretion if it finds that exceptional circumstances are present.

Moreover, paragraph 14(a) of the Rules is counterbalanced by paragraph 10(b) of the Rules, which provides that the Panel shall ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case.

In the present case, the Respondent explains that the late filing resulted from not seeing the prior notifications in time. The Respondent states that the emails were sent to an account that he rarely uses and that he only became aware of the proceeding shortly before submitting his Response. He asserts that he began preparing the Response immediately upon discovering the notice, apologizes for the delay, and requests that the Panel accept the late filing on this basis.

The Panel accepts the circumstances asserted by the Respondent regarding the late filing of the Response. Moreover, the Panel finds that the lateness of the submission has neither prejudiced the Complainant nor delayed the Panel's decision. The Panel therefore considers it appropriate to admit the Respondent's late Response.

## 6.2. Substantive Matters – Three Elements

Paragraph 4(a) of the Policy places a burden on the Complainant to prove the presence of three separate elements, which can be summarized as follows:

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

The requested remedy may only be granted if the above criteria are met. At the outset, the Panel notes that the applicable standard of proof in UDRP cases is the “balance of probabilities” or “preponderance of the evidence”. See section 4.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”).

### A. Identical or Confusingly Similar

Under the first element, the Complainant must establish that the Domain Name is identical or confusingly similar to the trademark in which the Complainant has rights.

The Complainant holds valid registrations for the SURVIMATE trademark. The Domain Name incorporates this trademark in its entirety. As numerous UDRP panels have held, incorporating a trademark in its entirety is sufficient to establish that a domain name is identical or confusingly similar to that trademark (see *PepsiCo, Inc. v. PEPSI, SRL (a/k/a P.E.P.S.I.) and EMS COMPUTER INDUSTRY (a/k/a EMS)*, WIPO Case No. [D2003-0696](#)).

The generic Top-Level Domain (“gTLD”) “.net” in the Domain Name is viewed as 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](#).

Given the above, the Panel finds that the Domain Name is identical to the Complainant’s SURVIMATE trademark. Thus, the Panel finds the first element of the Policy has been established.

### B. Rights or Legitimate Interests

Under the second element, the Complainant must prove that the Respondent has no rights or legitimate interests in the Domain Name.

A right or legitimate interest in the Domain Name may be established, in accordance with paragraph 4(c) of the Policy, if the Panel finds any of the following circumstances:

- (i) that the Respondent has used or made preparations to use the Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services prior to the dispute; or
- (ii) that the Respondent is commonly known by the Domain Name, even if the Respondent has not acquired any trademark rights; or
- (iii) that the Respondent is making a legitimate noncommercial or fair use of the Domain Name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark.

In the present case, the Complainant's SURVIVATE trademark registrations predate the Respondent's registration of the Domain Name. There is no evidence in the case record showing that the Complainant has licensed or otherwise permitted the Respondent to use the SURVIVATE trademark or to register the Domain Name incorporating this trademark.

Moreover, it results from the evidence on record that the Respondent does not make use of the Domain Name in connection with a bona fide offering of goods or services, nor does it make a legitimate noncommercial or fair use of the Domain Name.

To the contrary, the Complainant has provided evidence that the Domain Name previously resolved to the Website that reproduced or cloned the Complainant's official website. Panels have categorically held that the use of a domain name for illegal activity, such as impersonation or passing off, can never confer rights or legitimate interests on a respondent. See section 2.13.1 of the [WIPO Overview 3.0](#).

The Respondent's unsupported assertion that the Domain Name was used only for noncommercial, educational, and personal purposes does not alter this conclusion. The record shows that the Domain Name previously resolved to a clone of the Complainant's official website, which constitutes impersonation and cannot establish rights or legitimate interests under the Policy, regardless of the Respondent's stated purpose.

Given the above, there are no circumstances in evidence which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights or legitimate interests of the Respondent in respect of the Domain Name. Thus, there is no evidence in the case record that refutes the Complainant's prima facie case of the Respondent's lack of rights or legitimate interests in the Domain Name. In sum, the Panel finds the second element of the Policy has been established.

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

Under the third element, the Complainant must prove that the Domain Name has been registered and is being used in bad faith.

Bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark. See section 3.1 of the [WIPO Overview 3.0](#).

Under paragraph 4(b) of the Policy, evidence of bad faith registration and use includes, without limitation:

- (i) circumstances indicating the domain name was registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the owner of a trademark or to a competitor of the trademark owner, for valuable consideration in excess of the documented out-of-pocket costs directly related to the domain name; or
- (ii) circumstances indicating that the domain name was registered in order to prevent the owner of a trademark from reflecting the mark in a corresponding domain name, provided it is a pattern of such conduct; or
- (iii) circumstances indicating that the domain name was registered primarily for the purpose of disrupting the business of a competitor; or
- (iv) circumstances indicating that the domain name has intentionally been used in an attempt to attract, for commercial gain, Internet users to a website or other online location, by creating a likelihood of confusion with a trademark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on a website or location.

As indicated above, the Complainant's rights in the SURVIVATE trademark predate the registration of the Domain Name. This Panel finds that the Respondent was or should have been aware of the Complainant's trademark at the time of registration. This finding is supported by the composition of the Domain Name, which consists solely of the SURVIVATE trademark, as well as by the content of the Website which constitutes a clone of the Complainant's official website.

Moreover, the Panel considers that the Complainant's SURVIVATE trademark is well known in its industry. Thus, the Respondent could not reasonably ignore the reputation of goods and services under this trademark, while operating the Website that passed itself off as the Complainant. In the absence of the Respondent's explanation of choosing a domain name only constitutes the Complainant's trademark and considering the circumstances of this case, the Panel finds that the Respondent, more likely than not, registered the Domain Name with the intention of taking unfair advantage of the reputation of the Complainant's SURVIVATE trademark.

As to the question of the use of the Domain Name in bad faith, the Panel notes that the Domain Name was previously used to resolve to the Website reproducing the Complainant's official site, which constitutes bad faith under the Policy. The Panel finds, having regard to the totality of the circumstances of the case, that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Website by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Website.

As of the date of this Decision, the Domain Name displays a contemplative message about universal interconnection. It also indicates that the Website is being updated. The Panel considers that the current passive holding of the Domain Name does not prevent a finding of bad faith in the circumstances of this case.

Moreover, the Panel notes that an offer to sell a domain name for a sum exceeding the registrant's out-of-pocket expenses is evidence of bad faith under the Policy. In the present case, the record indicates that the Respondent demanded USD 100,000 for the transfer of the Domain Name, while the Respondent contends that this amount was merely a normal negotiation response. The Panel finds that it is more likely than not that the requested price far exceeds normal registration expenses associated with a domain name that consists of a term which does not appear to have any dictionary meaning. The Panel considers that the Domain Name was offered for sale for USD 100,000 most likely due to its reference to the Complainant's SURVIVATE trademark, which may further support that the Domain Name was registered and is being used in bad faith.

For the reasons discussed above, the Panel finds 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 Domain Name <survivate.net> be transferred to the Complainant.

*/Piotr Nowaczyk/*

**Piotr Nowaczyk**

Sole Panelist

Date: November 25, 2025