

ADMINISTRATIVE PANEL DECISION

SOLVAY Société Anonyme v. Joseph Abdi, Jolis International Ltd.
Case No. DEU2022-0017

1. The Parties

Complainant is SOLVAY Société Anonyme, Belgium, represented internally.

Respondent is Joseph Abdi, Jolis International Ltd., Bulgaria.¹

2. The Domain Name, Registry and Registrar

The Registry of the disputed domain name <solvayspecialities.eu> is the European Registry for Internet Domains ("EURid" or the "Registry"). The Registrar of the disputed domain name is TLD Registrar Solutions Ltd. ("the Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on June 13, 2022. On June 14, 2022, the Center transmitted by email to the Registry a request for registrar verification in connection with the disputed domain name. On June 17, 2022, the Registry 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 and contact information in the Complaint. The Center sent an email communication to Complainant on June 25, 2022, providing the registrant and contact information disclosed by the Registry, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on June 27, 2022.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the .eu Alternative Dispute Resolution Rules (the "ADR Rules") and the World Intellectual Property Organization Supplemental Rules for .eu Alternative Dispute Resolution Rules (the "Supplemental Rules").

In accordance with the ADR Rules, Paragraph B(2), the Center formally notified Respondent of the Complaint, and the proceedings commenced on June 27, 2022. In accordance with the ADR Rules,

¹ The address provided for the registration of the disputed domain name corresponds to a location in Kampala, Uganda, but has been added by the two-letter code "BG", referring to Bulgaria.

Paragraph B(3), the due date for Response was August 10, 2022. The Center received an email communication from Respondent on June 30, 2022, upon which the Center informed Respondent that its communication is not in accordance with ADR Rules, paragraph B(3)(b). Respondent did not submit a compliant Response further to the Center's Notification of Response deficiency. Accordingly, the Center notified Respondent's default on August 19, 2022.

The Center appointed Stephanie G. Hartung as the sole panelist in this matter on August 24, 2022. 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 ADR Rules, Paragraph B(5).

4. Factual Background

Complainant is a company organized under the laws of Belgium that is active in the chemical industry.

Complainant has provided evidence that it is the registered owner of numerous trademarks relating to Complainant's company name and brand "Solvay", including the following with protection, *inter alia*, for Bulgaria:

- Word mark SOLVAY, European Union Intellectual Property Office (EUIPO), registration number: 000067801, registration date: May 30, 2000, status: active.

Respondent, by including the two-letter code "BG" in its address registered in the Whois information for the disputed domain name, identifies itself to reside in Bulgaria, while the rest of the address corresponds to a location in Kampala, Uganda, which not only appears in the signature of Respondent's email correspondence to the Center of June 30, 2022, but where the Written Notification of Complaint dated June 27, 2022, was successfully delivered. By the time of the rendering of this decision, the disputed domain name does not resolve to any content on the Internet and apparently has never done so in the past.

Complainant requests that the disputed domain name be transferred to Complainant.

5. Parties' Contentions

A. Complainant

Complainant contends to be a global science company specialized in high-performance polymers and composites technologies, and a leader in chemicals, founded back in 1863 with its SOLVAY trademark nowadays being well-known all over the world, both thanks to Complainant's international presence and to its marketing investments.

Complainant submits that the disputed domain name is confusingly similar to Complainant's SOLVAY trademark as it incorporates the latter in its entirety, simply added by the descriptive term "specialities". Moreover, Complainant asserts that Respondent has no rights or legitimate interests in respect of the disputed domain name since (1) Respondent is not commonly known by the disputed domain name, (2) Respondent has not been given any license or other permission to use Complainant's SOLVAY trademark and apparently has not acquired such rights on its own, and (3) the disputed domain name is not linked to any active website, but given that the disputed domain name incorporates Complainant's well-known SOLVAY trademark in its entirety, any good faith use of the disputed domain name by Respondent is inconceivable whatsoever. Finally, Complainant argues that Respondent has registered the disputed domain name in bad faith since (1) given the well-known character of Complainant's SOLVAY trademark, Respondent could not reasonably have been unaware of Complainant's rights in the term "Solvay" when registering the disputed domain name, and (2) by registering the disputed domain name, Respondent prevents Complainant from reflecting its SOLVAY trademark in a corresponding domain name, (3) though

the disputed domain name currently does not resolve to an active website, it is impossible to imagine any plausible legitimate use of the disputed domain name by Respondent, especially in view of the global reach of Complainant and the well-known and distinctive character of its SOLVAY trademark.

B. Respondent

Respondent did not file a formal Response, but merely contacted the Center by email communication of June 30, 2022, questioning what the Center required from Respondent.

6. Discussion and Findings

Pursuant to Article 21(1) of European Union (“EU”) Regulation 874/2004 as well as Paragraph B11(d)(1) of the ADR Rules, it is for Complainant to establish that:

- (i) The disputed domain name is identical or confusingly similar to a name in respect of which a right is recognized or established by the national law of a Member State and/or European Union law and; either
- (ii) The disputed domain name has been registered by Respondent without rights or legitimate interests in the name; or
- (iii) The disputed domain name has been registered or is being used in bad faith.

A. Identical or Confusingly Similar to a name in respect of which a right is recognized or established by national law of a Member State and/or European Union law

The Panel concludes that the disputed domain name is confusingly similar to the SOLVAY trademark, of which Complainant has proven to be the registered owner, which enjoys protection for the territory of the European Union, and which was well registered before the disputed domain name.

The disputed domain name incorporates the SOLVAY trademark in its entirety, simply added by the term “specialities”. Numerous panels have recognized that incorporating a trademark in its entirety is normally sufficient to establish that the disputed domain name is at least confusingly similar to a registered trademark (see WIPO Overview on WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.7).² Moreover, it has been held in many UDRP decisions and has become a consensus view among panels, that the addition of another term (whether, e.g., descriptive or otherwise) to a trademark in a domain name would not prevent a finding of confusing similarity under the first element ([WIPO Overview 3.0](#), section 1.8). Accordingly, the addition of the descriptive term “specialities” does not prevent a finding of confusing similarity arising from the incorporation of Complainant’s SOLVAY trademark in the disputed domain name.

Therefore, the Panel holds that the requirements of Paragraph B11(d)(1)(i) of the ADR Rules are met.

B. No Rights or Legitimate Interests

The Panel is further convinced, on the basis of Complainant’s undisputed contentions, that Respondent has not made use of the disputed domain name in connection with the offering of goods or services, nor has Respondent been commonly known by the disputed domain name, nor can it be found that Respondent has made a legitimate noncommercial or fair use thereof without intent for commercial gain (ADR Rules, Paragraph B11(e)).

² Due to the numerous parallels between the Uniform Domain Name Dispute Resolution Policy (“UDRP”) and the ADR rules, the Panel can also draw on the established award practice in UDRP proceedings in relevant cases.

Pursuant to the ADR Rules, Paragraph B11(d)(1)(ii), it is up to Complainant to plead and prove accordingly that the disputed domain name has been registered by Respondent without rights or legitimate interests therein. The ADR Rules contain in Paragraph B11(e) a non-exhaustive list of case scenarios suitable to prove rights or legitimate interests of a respondent. Inasmuch as it is typically difficult to prove a negative fact (here the absence of rights or legitimate interests), it is in line with the majority view of UDRP panels as well as in “.eu” ADR proceedings that it is sufficient if Complainant establishes a so-called *prima facie* case. This results in a shifting of the burden of production and it is then up to Respondent to present and prove that there are corresponding rights or legitimate interests in the disputed domain name (see for example *Lidl Stiftung & Co. KG v. Name Redacted*, WIPO Case No. [DEU2018-0012](#)).

Respondent has neither been granted a license nor has it been otherwise authorized by Complainant to use its SOLVAY trademark, either as a domain name or in any other way. Also, there is no reason to believe that Respondent’s name somehow corresponds with the disputed domain name and Respondent does not appear to have any trademark rights associated with the term “Solvay” on its own. Finally, by the time of the rendering of this decision, the disputed domain name does not resolve to any active content on the Internet – and apparently has never done so in the past. Panels, however, have recognized that the mere registration of a domain name, even one that is comprised of a confirmed dictionary word or phrase, does not by itself automatically confer rights or legitimate interests in the disputed domain name, especially not – as in the case at hand – if the relevant trademark enjoys fame (see [WIPO Overview 3.0](#), section 2.10.1).

Accordingly, Complainant has established a *prima facie* case that Respondent has no rights or legitimate interests in respect of the disputed domain name. Now, the burden of production shifts to Respondent to come forward with appropriate evidence demonstrating to the contrary (see [WIPO Overview 3.0](#), section 2.1). Given that Respondent has not submitted a formal Response, but merely contacted the Center by email communication of June 30, 2022, questioning what the Center required from Respondent, it has not met that burden.

Therefore, the Panel finds that the disputed domain name was registered by Respondent without any rights or legitimate interests therein, which is why the requirements of Paragraph B11(d)(1)(ii) of the ADR Rules are met, too.

C. Registered or Used in Bad Faith

Finally, and simply for the sake of completeness, the Panel, in addition, holds that the disputed domain name also has been registered and is being used in bad faith.

As a general rule, Panelists 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 (see [WIPO Overview 3.0](#), section 3.3). 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 *e.g.*: the degree of distinctiveness or reputation of complainant’s mark, the failure of respondent to submit a response or to provide any evidence of actual or contemplated good faith use, or the implausibility of any good faith use to which the domain name may be put.

Complainant contends, and Respondent has not challenged this contention, that its SOLVAY trademark nowadays is well-known all over the world, both thanks to Complainant’s international presence and to its marketing investments, which is why it is highly unlikely that Respondent was not aware of Complainant’s SOLVAY trademark rights by the time of the registration of the disputed domain name. Also, there is no indication apparent from the case file and Respondent has failed to submit any explanation as to why it needed to rely exactly on the term “Solvay” when it registered the disputed domain name. Accordingly, there is little, if no room for any plausible use of the disputed domain name which would not take unfair advantage by profiting from the undisputed reputation which Complainant’s SOLVAY trademark enjoys. Against this background, the passive holding of the disputed domain name by Respondent is not in contrast to hold that Respondent has still registered and is using the disputed domain name in bad faith.

In this context, it also carries weight in the eyes of the Panel that the address provided for the registration of the disputed domain name corresponds to a location in Kampala, Uganda, which not only appears in the signature of Respondent's email correspondence to the Center of June 30, 2022, but where the Written Notification of Complaint dated June 27, 2022, was successfully delivered; by the same time, such valid address in Uganda has been added by Respondent in the Whois information for the disputed domain name by the two-letter code "BG", referring to Bulgaria, thus to a EU member state, for the obvious reason to formally fulfill the (local) criteria for eligibility to register a ".eu" domain name as set out in Article 4(2)(b) of Regulation (EC) No. 733/2002 and amended by Article 20 of Regulation (EU) 2019/517. Such provision of obviously false Whois information for an illegal purpose at least supports the Panel's bad faith finding.

Accordingly, the Panel concludes that the requirements of Paragraph B11(d)(1)(iii) of the ADR Rules are met, too.

7. Decision

For the foregoing reasons, in accordance with Paragraph B(11) of the ADR Rules, the Panel orders that the disputed domain name <solvayspecialities.eu> be transferred to Complainant, having its registered office within Belgium, and, thus, satisfies the general eligibility criteria for registration of a ".eu" domain name as set out in Article 4(2)(b)(i) of Regulation (EC) No. 733/2002 as amended by Article 20 of Regulation (EU) 2019/517.³

/Stephanie G. Hartung/

Stephanie G. Hartung

Sole Panelist

Date: September 8, 2022

³ The decision shall be implemented by the Registry within thirty (30) days after the notification of the decision to the Parties, unless the Respondent initiates court proceedings in a Mutual Jurisdiction, as defined in Paragraph A(1) of the ADR Rules.