

ADMINISTRATIVE PANEL DECISION

SOLVAY Société Anonyme v. Privacy Service Provided by Withheld for Privacy ehf / Gary Reid
Case No. D2022-2586

1. The Parties

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

The Respondent is Privacy Service Provided by Withheld for Privacy ehf, Iceland / Gary Reid, United States of America.

2. The Domain Name and Registrar

The disputed domain name <solway-lebanon.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 15, 2022. On July 15, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 15, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on July 18, 2022, 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 25, 2022.

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 26, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 15, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 16, 2022.

The Center appointed Federica Togo as the sole panelist in this matter on August 22, 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 Rules, paragraph 7.

4. Factual Background

The Complainant is a global science company specialised in high-performance polymers and composites technologies, and a leader in chemicals.

The Complainant is the registered owner of trademarks in several jurisdictions for the term SOLVAY, e.g., International trademark registration No. 1171614 SOLVAY (word), registered on February 28, 2013, for goods and services 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, also covering, amongst others, United States of America where the Respondent is reportedly located; European trademark registration No. 000067801 SOLVAY (word), registered on May 30, 2000, for goods and services in classes 1, 3, 4, 5, 7, 9, 10, 12, 17, 19, 20, and 31. Both trademarks are active, with the latter recently being renewed.

The disputed domain name was registered on June 29, 2022. Furthermore, the undisputed evidence provided by the Complainant proves that it resolved to a parking website comprising pay-per-click ("PPC") links, including links referring to the Complainant's products and competitors.

5. Parties' Contentions

A. Complainant

It results from the Complainant's undisputed allegations that it is a global science company specialised in high-performance polymers and composites technologies, and a leader in chemicals. The Complainant's group was founded 1863, has its registered offices in Brussels and employs more than 21,000 people in 63 countries.

The Complainant contends that its trademark SOLVAY is distinctive and well known all over the world due to the Complainant's international presence and to its marketing investments.

The Complainant further contends that the disputed domain name is confusingly similar to the Complainant's earlier trademark, since it incorporates the Complainant's SOLVAY mark in its entirety and the addition of a hyphen and of the geographic term "lebanon" do not prevent a finding of confusing similarity, because the mark is clearly recognizable within the disputed domain name.

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name. According to the Complainant, the Respondent is not commonly known by the disputed domain name. In addition, in the absence of any license or permission from the Complainant to use its widely-known trademark, no actual or contemplated *bona fide* or legitimate use of the disputed domain name could reasonably be claimed. Furthermore, the disputed domain name impersonates or at least suggests sponsorship or endorsement by the Complainant and cannot constitute *bona fide* or even fair use. In fact, it incorporates the well-known SOLVAY trademark and company name of the Complainant in its entirety and simply adds a hyphen and the geographic term "lebanon": Internet users may believe that the disputed domain name refers to an entity, office or production site of the Complainant located in Lebanon. In addition, the disputed domain name resolved to a parking page with sponsored links, including links referring to the Complainant's products and competitors. Such use does not amount to a *bona fide* or fair use of the disputed domain name.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. The Complainant submits that at the time the Respondent registered the disputed domain name, he

must have known the Complainant and its trademarks since they are well known, and because some of the sponsored links on the website to which the disputed domain name resolved relate to the Complainant. In addition, the effect of the registration is to affect the business of the Complainant by attracting visitors looking for information about the Complainant or its marks and creating difficulties for persons searching the Internet. The mere registration of the disputed domain name that is confusingly similar to the widely-known trademark SOLVAY by an unaffiliated entity – as is the case here – can by itself create a presumption of bad faith.

Given the well-known and distinctive character of the Complainant's marks, there is no reason to use these marks in the disputed domain name other than to profit from the Complainant's reputation by creating a likelihood of confusion with its marks.

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”. Paragraph 4(a) of the Policy requires a complainant to prove each of the following three elements in order to obtain an order that the disputed domain name be transferred or cancelled:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (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.

The Panel will therefore proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied.

A. Identical or Confusingly Similar

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

It results from the evidence provided that the Complainant is the registered owner of several trademark registrations for the term SOLVAY. Reference is made in particular to the trademark registrations listed in section 4 above.

Prior UDRP panels have found that a disputed domain name is confusingly similar to a complainant's trademark where the disputed domain name incorporates the complainant's trademark in its entirety (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) at section 1.7).

This Panel shares this view and notes that the Complainant's registered trademark SOLVAY is fully included in the disputed domain name, followed by a hyphen and the geographic term “lebanon”. Furthermore, it is the view of this Panel that the addition of a hyphen and of the term “lebanon” in the disputed domain name cannot prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark, since the Complainant's trademark is clearly recognizable in the disputed domain name (see [WIPO Overview 3.0](#) at section 1.8).

Finally, the generic Top-Level Domain (“gTLD”) “.com” of the disputed domain name may be disregarded under the first element confusing similarity test (see [WIPO Overview 3.0](#) at section 1.11.1).

In the light of the above, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(a)(ii) of the Policy, the Complainant must secondly establish that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Paragraph 4(c) of the Policy contains a non-exhaustive list of circumstances which, if found by the Panel to be proved, shall demonstrate the Respondent’s rights or legitimate interests to the disputed domain name. In the Panel’s view, based on the undisputed allegations stated above, the Complainant has made a *prima facie* case that none of these circumstances are found in the case at hand and, therefore, that the Respondent lacks rights or legitimate interests in the disputed domain name.

According to the Complaint, which has remained unchallenged, the Complainant has no relationship in any way with the Respondent and did not authorize the Respondent’s use of the trademark SOLVAY or the registration of the disputed domain name.

Furthermore, the Panel notes that there is no evidence showing that the Respondent might be commonly known by the disputed domain name in the sense of paragraph 4(c)(ii) of the Policy.

In addition, it results from the undisputed evidence before the Panel that the disputed domain name resolved to a parking website comprising PPC links that compete with or capitalize on the Complainant’s trademark. UDRP panels have found that the use of a domain name to host a parked page comprising pay-per-click links does not represent *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of the complainant’s mark or otherwise mislead Internet users (see [WIPO Overview 3.0](#) at section 2.9, with further references). This Panel shares this view and notes that the Complainant’s trademark SOLVAY is well known (e.g., *Solvay S.A. v. WhoisGuard Protected, WhoisGuard, Inc. / Jie Zhang, Jie Inc CEO*, WIPO Case No. [D2020-0059](#)). Therefore, such use can neither be considered as *bona fide* offering of goods or services nor a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

Furthermore, the nature of the disputed domain name carries a risk of implied affiliation, since the disputed domain name contains the Complainant’s trademark SOLVAY followed by a hyphen and the geographic term “lebanon” and geographic terms are seen as tending to suggest sponsorship or endorsement by the trademark owner see [WIPO Overview 3.0](#), section 2.5.1. Particularly, the Complainant opened an office in Middle East in 2016, and thus the composition of the disputed domain name may create an inference that any website connected thereto would belong to an entity, or another office of the Complainant located in Lebanon.

It is acknowledged that once the Panel finds a *prima facie* case is made by a complainant, the burden of production under the second element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name (see [WIPO Overview 3.0](#) at section 2.1). Since the Respondent in the case at hand failed to come forward with any allegations or evidence, this Panel finds, in the circumstances of this case, that the Respondent has no rights or legitimate interests in the disputed domain name.

The Complainant has therefore satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

According to paragraph 4(a)(iii) of the Policy, the Complainant must thirdly establish that the disputed

domain name has been registered and is being used in bad faith. The Policy indicates that certain circumstances specified in paragraph 4(b) of the Policy may, “in particular but without limitation”, be evidence of the disputed domain name’s registration and use in bad faith.

Based on the evidence submitted by the Complainant, the Panel shares the view of other UDRP panels and finds that the Complainant’s trademark SOLVAY is widely known. Therefore, given that the Complainant’s trademark rights predate the registration of the disputed domain name, this Panel has no doubt that the Respondent positively knew or should have known that the disputed domain name consisted of the Complainant’s trademark when he registered the disputed domain name. Registration of the disputed domain name in awareness of the reputed SOLVAY mark and in the absence of rights or legitimate interests in this case amounts to registration in bad faith (see *e.g.*, *Bayer AG v. Privacy service provided by Withheld for Privacy ehf / farm construction, BAYERCROP POLAND*, WIPO Case No. [D2022-1043](#); *Carrefour SA v. Matias Barro Mares*, WIPO Case No. [D2020-3088](#)).

The Complainant also proved that the disputed domain name resolved to a parking website comprising PPC links that compete with or capitalize on the Complainant’s trademark, so that the Panel is satisfied that the disputed domain name, incorporating in its entirety the Complainant’s trademark that has gained a reputation, is being used to intentionally attempt to attract, for commercial gain, Internet users to the Respondent’s website or other online locations, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation or endorsement of the Respondent’s website or locations, or of a product or service on the Respondent’s website or locations.

Finally, the further circumstances surrounding the disputed domain name’s registration and use confirm the findings that the Respondent has registered and is using the disputed domain name in bad faith (see [WIPO Overview 3.0](#) at point 3.2.1):

- (i) the nature of the domain name (*i.e.* a domain name incorporating the Complainant’s well-known mark plus a geographic term);
- (ii) a clear absence of rights or legitimate interests coupled with no credible explanation for the Respondent’s choice of the disputed domain name.

The Complainant has therefore satisfied paragraph 4(a)(iii) 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, <solvay-lebanon.com>, be transferred to the Complainant.

/Federica Togo/

Federica Togo

Sole Panelist

Date: September 5, 2022