

ADMINISTRATIVE PANEL DECISION

Solvay SA v. Dave Code, MarvyCapital
Case No. D2024-0695

1. The Parties

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

The Respondent is Dave Code, MarvyCapital, United States of America ("United States").

2. The Domain Name and Registrar

The disputed domain name <solvaytrades.net> is registered with Tucows Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 14, 2024. On February 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 15, 2024, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 16, 2024, 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 February 19, 2024.

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 February 21, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 12, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 13, 2024.

The Center appointed Torsten Bettinger as the sole panelist in this matter on March 15, 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 Belgian company specialized in high-performance polymers and composites technologies and a leader in chemical products. The Complainant is the owner of inter alia the following trademark registrations:

- European Union Trade Mark registration No. 000067801 for SOLVAY registered on May 30, 2000;
- European Union Trade Mark registration No. 011664091 for SOLVAY registered on August 13, 2013;
- US trademark registration No. 2770637 for SOLVAY registered on October 7, 2003.

all three specifying goods and services in multiple classes.

Further, it is undisputed that the Complainant is the holder of inter alia the domain name <solvay.com>.

The disputed domain name was registered on January 28, 2024, and resolves to a webpage that displays the Complainant's logo which is also protected as a trademark worldwide, inter alia by International trademark registration No. 1180832 SOLVAY (+design) registered on March 28, 2013.

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 states that it is a global leader in chemicals and material and owns offices productions sites in more than 60 countries, employing 22.000 people.

With regard to the requirement of identity or confusing similarity between the trademark and the disputed domain name pursuant to paragraph 4(a)(i) of the Policy, the Complainant asserts that:

- the disputed domain name is confusingly similar to the Complainant's SOLVAY mark as it includes the Complainant's trademark SOLVAY in its entirety followed by the term "trades" which is a common term for commercial activities;
- by using SOLVAY in the disputed domain name, the Respondent creates confusion as consumers may believe that the disputed domain name refers to the Complainant;
- the disputed domain name's ".net" extension should be disregarded under the first element as it forms a standard registration requirement.

With regard to the Respondent having no rights or legitimate interests in the disputed domain name, the Complainant submitted that:

- the Respondent has not been commonly known by the disputed domain name;
- the Respondent does not own any trademark corresponding to the disputed domain name;
- the Complainant has not licensed or otherwise authorized the Respondent to use its trademark or any domain name including the trademark SOLVAY.

Finally, with regard to the disputed domain name having been registered and being used in bad faith, the Complainant argues that:

- the SOLVAY trademarks enjoy reputation due to their intensive, long-standing and worldwide use;
- due to the degree of reputation of Complainant's trademarks and activities the Respondent could not ignore the existence of Complainant's prior rights; the Respondent clearly infringes Complainant's trademark's right by using Complainant's logo which also enjoys protection as a registered trademark;
- the Respondent is trying to take unfair advantage of the reputation of the Complainant by drawing the attention of the consumer who will believe that the Respondent and the Complainant are the same company or at least related companies;
- in a previous UDRP decision (*Solvay S.A. v. Dave Code, MarvyCapital*, WIPO Case No. [D2023-4657](#)) concerning the domain name <solvaytrades.com> the domain name resolved to an identical website which also displayed the Complainant's logo which makes it reasonable to believe that the Respondent in both cases is the same;
- the use of a privacy registration service is another indication of bad faith as such services are notably used by cybersquatters to hide their identity.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy states that the Complainant must prove each of the three following elements:

- (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.

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.

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 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 other terms, here "trades" could bear on assessment of the second and third elements, the Panel finds the addition of this 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 agrees with the Complainant that the nature of the disputed domain name and the Respondent’s use of the Complainant’s logo carries a risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

In addition, no evidence has been provided to prove that the Respondent has trademark rights corresponding to the disputed domain name, or that the Respondent has become known by the disputed domain name.

Based on the available record, 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.

In the present case, the Complainant provided evidence of multiple trademark registrations for the SOLVAY mark that predate the registration of the disputed domain name.

In light of the extensive use of the Complainant’s SOLVAY trademark in more than 60 countries and the fact that the disputed domain name resolves to a website that displays the Complainant’s logo, the Panel has no doubt that the Respondent was aware of the Complainant and the Complainant’s trademark rights when registering the disputed domain name.

The Panel therefore concludes that the Respondent registered the disputed domain name in bad faith.

Based on the record in this proceeding it is also undisputed that the disputed domain name resolved to a website that displays the Complainant’s logo. The Panel therefore infers that the Respondent by using the disputed domain name in this manner, has intentionally created a likelihood of confusion with the Complainant’s trademark for the Respondent’s financial gain and that the Respondent is using the disputed domain name in bad faith.

The Panel therefore 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 <solvaytrades.net> be transferred to the Complainant.

/Torsten Bettinger/

Torsten Bettinger

Sole Panelist

Date: March 29, 2024