

ADMINISTRATIVE PANEL DECISION

Solvay SA v. Domains By Proxy, LLC / Sreenivasulu Uppari, Gnapika Solutions

Case No. D2022-1106

1. The Parties

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

The Respondent is Domains By Proxy, LLC / Sreenivasulu Uppari, Gnapika Solutions, India.

2. The Domain Name and Registrar

The disputed domain name <solwaytrade.com> 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 March 31, 2022. On March 31, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 1, 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 April 4, 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 amendment to the Complaint on April 4, 2022.

The Center verified that the Complaint together with the amendment to the 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 April 7, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 27, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 2, 2022.

The Center appointed Anna Carabelli as the sole panelist in this matter on May 9, 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 Belgian multinational chemical company established in 1863, with its headquarters in Brussels, Belgium.

The Complainant's group has global operations across multiple countries, employing more than 23,000 people. Its net sale in 2020 was more than 8 billion Euros (see Annex 4 to the Complainant).

The Complainant has registered multiple trademarks for SOLVAY, including the following (hereinafter collectively referred to as "the Complainant's trademark"):

- SOLVAY, European Union word mark registered on May 30, 2000 under No. 000067801 in classes 1, 3, 4, 5, 7, 9, 10, 12, 17, 19, 20 and 31;
- SOLVAY, European Union word mark registered on February 28, 2013 under No. 011664091 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; and
- SOLVAY, International word mark registered on February 28, 2013 under No. 1171614 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.

The disputed domain name was registered on March 6, 2022, using a privacy service. As submitted by the Complainant, the disputed domain name does not resolve to an active website.

5. Parties' Contentions

A. Complainant

The Complainant relies on its rights in the abovementioned trademarks (Annex 5 to the Complaint), and asserts and contends that:

- the Complainant's trademark has acquired and enjoys a significant reputation and goodwill, as recognized by previous UDRP panels.
- The disputed domain name is confusingly similar with the Complainant's trademark, since it incorporates the Complainant's trademark simply adding the generic term "trade" and the ".com" generic Top Level Domain ("gTLD").
- The Respondent has no rights or legitimate interests in the disputed domain name. The Complainant has not authorized or somehow given consent to the Respondent to register and use the disputed domain name and the Respondent is not commonly known by the disputed domain name. The disputed domain name carries a risk of implied sponsorship or endorsement by the Complainant, which cannot be considered a fair use of the disputed domain name.
- The disputed domain name was registered in bad faith. By the time the Respondent registered the disputed domain name, the Complainant already had a reputation in its trademark, which is fully adopted in the disputed domain name. The mere registration of a domain name that is identical to or confusingly similar with a well-known trademark creates a presumption of bad faith.
- The disputed domain name is also being used in bad faith. The current inactive status of the disputed domain name does not prevent a finding of bad faith under the doctrine of passive holding. In addition, the Complainant submits that by registering the disputed domain name the Respondent prevents the Complainant from reflecting its trademark in a corresponding domain name.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the Panel to decide the Complaint based on the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Under paragraph 4(a) of the Policy, the Complainant must prove each of the following:

- (i) the disputed 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 respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

Paragraph 4(b) of the Policy sets out four illustrative circumstances, which for the purposes of paragraph 4(a)(iii) of the Policy, shall be evidence of registration and use of a domain name in bad faith.

Paragraph 4(c) of the Policy sets out three illustrative circumstances any one of which, if proved by the Respondent, shall be evidence of the Respondent's rights to or legitimate interests in the disputed domain name for the purpose of paragraph 4(a)(ii) of the Policy above.

A. Identical or Confusingly Similar

The disputed domain name entirely incorporates the Complainant's trademark SOLVAY and this is a sufficient element to establish confusing similarity, as held by previous UDRP panels (e.g., *Banca Mediolanum S.p.A. v. Domains By Proxy, LLC / Marzia Chiarello*, WIPO Case No. [D2020-1955](#); *Virgin Enterprises Limited v. Domains By Proxy LLC, Domainsbyproxy.com / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-1923](#); *Patagonia, Inc. v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2019-1409](#)).

As recorded in section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), where the relevant trademark is recognizable within the disputed domain name, the addition of other terms ("trade" in the specific case) does not prevent a finding of confusing similarity under the first element.

The addition of the gTLD ".com" is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. (See section 1.11 of the [WIPO Overview 3.0](#)).

In the light of all the above, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademarks and the Complainant has established element 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant states that it has not authorized, licensed or permitted the Respondent to use the Complainant's trademarks and that the Respondent is not commonly known by the disputed domain name.

The Complainant also asserts that the Respondent cannot demonstrate any legitimate noncommercial or fair use of the disputed domain name.

The Panel finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. As stressed by many previous UDRP decisions, in such a case the burden of production shifts to the Respondent to rebut the evidence (see [WIPO Overview 3.0](#), section 2.1).

By not submitting a Response, the Respondent has failed to invoke any circumstance, which could have demonstrated any rights or legitimate interests in the disputed domain name under paragraph 4(c) of the Policy.

Therefore, the Panel finds that the Complainant has established 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 establish that the disputed domain name has been registered and is being used in bad faith.

Given the distinctiveness and well-established reputation of the Complainant's trademark (recognized in *Solvay S.A. v. Registration Private, Domain By Proxy, LLC / Alix Deschapms*, WIPO Case No. [D2015-0689](#); *Solvay S.A. v. Domain Privacy Service Fbo Registrant / Mary Koehler*, WIPO Case No. [D2016-1357](#)) it is not conceivable that the Respondent did not have in mind the Complainant's trademarks when registering the disputed domain name. Such fact suggests that the disputed domain name was registered in bad faith (see section 3.2.2 of the [WIPO Overview 3.0](#)) with a deliberate intent to create an impression of an association with the Complainant.

The current inactive status of the disputed domain name does not prevent a finding of bad faith under the doctrine of passive holding. As stressed by many previous UDRP decisions, "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: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put." (see section 3.3 of the [WIPO Overview 3.0](#); *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

Each of these considerations points to the Respondent's passive holding of the disputed domain name being in bad faith. Specifically; (i) the Complainant's trademark is distinctive and well-established, (ii) the Respondent has failed to submit a response to the Complaint or provide any evidence of good-faith use, (iii) the Respondent has taken steps to conceal its identity through use of a privacy service, and (iv) there is no conceivable good faith use to which the disputed domain name could be put by the Respondent.

Therefore, the Complainant has established 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, <solvaytrade.com> be transferred to the Complainant.

/Anna Carabelli/

Anna Carabelli

Sole Panelist

Date: May 23, 2022