

## **ADMINISTRATIVE PANEL DECISION**

Solvay Société Anonyme v. Domain Sales - (Expired domain caught by auction winner) c/o Dynadot  
Case No. D2022-1628

### **1. The Parties**

The Complainant is Solvay Société Anonyme, Belgium, internally represented.

The Respondent is Domain Sales - (Expired domain caught by auction winner) c/o Dynadot, United States of America.

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

The disputed domain name <solwayprogressbeyond.com> (“Domain Name”) is registered with Dynadot, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 5, 2022. On May 5, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On May 6, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 May 10, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 30, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 31, 2022.

The Center appointed Nicholas Smith as the sole panelist in this matter on June 10, 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 company founded in 1863, specializing in high-performance polymers and composites technologies. The Complainant employs more than 23,000 people, operates in 64 countries, and has annual sales of over EUR 8 billion.

The Complainant is the owner of trade marks in various jurisdictions consisting of the word “Solvay” (the “SOLVAY Mark”), including a European Union Registration for the SOLVAY Mark (Registration No. 000067801, registered on May 30, 2000) for goods in classes 1, 3, 4, 5, 7, 9, 10, 12, 17, 19, 20, and 31. In addition, in its marketing, the Complainant commonly uses the slogan “Progress Beyond” and has registered that slogan as a trade mark in various jurisdictions since 2020.

The Domain Name was registered on April 23, 2022. The Domain Name has resolved to a website operated by a third party offering pay-per-click advertisements and indicating that the Domain Name is for sale. It presently redirects to a website (the “Respondent’s Website”) operated by a third party that indicates the Domain Name is for sale for a sum of USD 995 that *prima facie* is larger than any likely out-of-pocket costs directly related to the Respondent’s registration of the Domain Name.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The Complainant makes the following contentions:

- (i) that the Domain Name is identical or confusingly similar to the Complainant’s SOLVAY Mark;
- (ii) that the Respondent has no rights nor any legitimate interests in respect of the Domain Name; and
- (iii) that the Domain Name has been registered and is being used in bad faith.

The Complainant is the owner of the SOLVAY Mark, having registered the SOLVAY Mark in the European Union. The Domain Name is confusingly similar to the SOLVAY Mark, wholly incorporating the SOLVAY Mark and adding the descriptive phrase “progress beyond”.

There are no rights or legitimate interests held by the Respondent in respect of the Domain Name. The Complainant has not granted any license or authorization for the Respondent to use the SOLVAY Mark nor is the Respondent commonly known by the Domain Name. The Respondent does not use the Domain Name for a *bona fide* purpose or legitimate noncommercial purpose. Indeed the Domain Name does not resolve to an active webpage at all.

The Respondent has registered and uses the Domain Name in bad faith. There is no plausible circumstance under which the Respondent could legitimately use the Domain Name, which combines the SOLVAY Mark and the Complainant’s slogan “progress beyond”, other than in bad faith. Given the reputation of the highly distinctive SOLVAY Mark, the Respondent must have been aware of the mark at the time of registration. In such circumstances, the Respondent’s passive holding of the Domain Name amounts to use of the Domain Name in bad faith.

##### **B. Respondent**

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

## 6. Discussion and Findings

### A. Identical or Confusingly Similar

To prove this element, the Complainant must have trade or service mark rights and the Domain Name must be identical or confusingly similar to the Complainant's trade or service mark.

The Complainant is the owner of the SOLVAY Mark, having a registration for the SOLVAY Mark as a trade mark in the European Union.

The Domain Name incorporates the SOLVAY Mark in its entirety with the addition of the Complainant's slogan and registered trade mark "progress beyond". Other UDRP panels have repeatedly held that where the relevant trade mark is recognizable within the disputed domain name, the addition of other terms does not prevent a finding of confusing similarity under the first element; see section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)).

The Panel finds that the Domain Name is confusingly similar to the Complainant's SOLVAY Mark. Consequently, the requirement of paragraph 4(a)(i) of the Policy is satisfied.

### B. Rights or Legitimate Interests

To succeed on this element, a complainant may make out a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name. If such a *prima facie* case is made out, the respondent then has the burden of demonstrating rights or legitimate interests in the domain name.

Paragraph 4(c) of the Policy enumerates several ways in which a respondent may demonstrate rights or legitimate interests in a disputed domain name:

"Any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate your rights or legitimate interests to the domain name for purposes of paragraph 4(a)(ii) of the Policy:

(i) before any notice to you of the dispute, your use of, or demonstrable 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; or

(ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trade mark or service mark rights; or

(iii) you are making legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark or service mark at issue."

The Respondent is not affiliated with the Complainant in any way. It has not been authorized by the Complainant to register or use the Domain Name or to seek the registration of any domain name incorporating the SOLVAY Mark or a mark similar to the SOLVAY Mark. There is no evidence that the Respondent is commonly known by the Domain Name or any similar name.

There is no evidence that the Respondent has used or made demonstrable preparations to use the Domain Name in connection with a legitimate noncommercial fair use or a *bona fide* offering of goods or services; the use of the Domain Name for a page advertising itself as being for sale, does not, in the absence of other evidence, amount to use for a *bona fide* offering of goods or services.

The Panel finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the Domain Name. The Respondent has chosen not to respond to the Complaint and thus has failed to provide any evidence of rights or legitimate interests in the Domain Name. The Panel finds

that the Respondent has no rights or legitimate interests in respect of the Domain Name under paragraph 4(a)(ii) of the Policy.

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

For the purposes of paragraph 4(a)(iii) of the Policy, the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of the Domain Name in bad faith:

- (i) circumstances indicating that the Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registrations to the Complainant who is the owner of the trade mark or service mark or to a competitor of the Complainant, for valuable consideration in excess of its documented out-of-pocket costs directly related to the Domain Name; or
- (ii) the Respondent has registered the Domain Name in order to prevent the owner of the trade mark or service mark from reflecting the mark in a corresponding domain name, provided that the Respondent has engaged in a pattern of such conduct; or
- (iii) the Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the Domain Name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, 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 location or of a product or service on the Respondent's website or location.

The Domain Name was registered over 20 years after the SOLVAY Mark was registered. The Panel finds, on the balance of probabilities, that the Respondent would have been aware of the Complainant and its reputation in the SOLVAY Mark at the time the Respondent registered the Domain Name. There is no obvious reason, nor has the Respondent offered an explanation, for the Respondent to register a domain name incorporating the SOLVAY Mark and the words "progress beyond" (the Complainant's slogan, which has also recently been registered as a trade mark) unless, as suggested by the Complainant and not denied by the Respondent, there was an intention to create a likelihood of confusion between the Domain Name and the SOLVAY Mark.

At some point shortly after the Domain Name was registered, the Respondent placed an advertisement on the Respondent's Website indicating that the Domain Name was for sale for USD 995. The presence of an advertisement indicating that the Domain Name was for sale within a few months of the registration of the Domain Name, along with the lack of any evidence supporting any other explanations as to the possible (legitimate) use of the Domain Name leads the Panel to conclude that the Respondent registered the Domain Name primarily for the purpose of selling it for an amount in excess of its out-of-pocket costs. Pursuant to 4(b)(i) of the Policy the Respondent has registered and used the Domain Name in bad faith. The Domain Name has also resolved to a website operated by a third party offering pay-per-click advertisements. Pursuant to 4(b)(iv) of the Policy, the Respondent has registered and used the Domain Name in bad faith.

Accordingly, the Panel finds that the Respondent has registered and is using the Domain Name in bad faith under 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 Domain Name, <solvayprogressbeyond.com> be transferred to the Complainant.

*/Nicholas Smith/*

**Nicholas Smith**

Sole Panelist

Date: June 21, 2022