

ADMINISTRATIVE PANEL DECISION

SOLVAY Société Anonyme v. A. Ozgur Polat, Solvaytech Muhendislik Sanayi Ve Ticaret Limited Sirketi
Case No. D2022-3114

1. The Parties

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

The Respondent is A. Ozgur Polat, Solvaytech Muhendislik Sanayi Ve Ticaret Limited Sirketi, Türkiye.

2. The Domain Name and Registrar

The disputed domain name <solvayteknoloji.com> is registered with Nics Telekomunikasyon A.S. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 23, 2022. On August 23, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 25, 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.

On August 25, 2022, the Center sent an email communicating in both English and Turkish regarding the language of the proceeding. The Complainant replied on the same day, asking English to be the language of the proceeding instead of Turkish. The Respondent did not reply.

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 in both English and Turkish, and the proceedings commenced on September 1, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 21, 2022. The Respondent did not submit any substantive response, however sent an informal communication email on September 21, 2022. Accordingly, the Center notified the commencement of panel appointment process on September 22, 2022.

The Center appointed Ugur G. Yalçiner as the sole panelist in this matter on September 27, 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 an international science company and global leader in chemical industry, which was established in 1863, headquartered in Brussels and has around 21,000 employees in 63 countries.

The Complainant is the owner of the following trademark registrations:

- European Union word mark SOLVAY, registered on May 30, 2000, with No. 67801, in classes 1, 3, 4, 5, 7, 9, 10, 12, 17, 19, 20 and 31;
- European Union word mark SOLVAY, registered on August 13, 2013, with 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;
- International word mark SOLVAY, registered on February 28, 2013, with 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, designated in many countries, including Türkiye.

The Complainant owns the domain name <solway.com>, which resolves to its principal website including the access to its local Turkish website.

The disputed domain name was registered on January 15, 2022, and resolves to a web page advertising the software services of a third party.

5. Parties' Contentions

A. Complainant

The Complainant emphasizes that the parties were already involved in a previous UDRP case (*SOLVAY Société Anonyme v. T. Taskin Sabah, Sabahweb Bilgi Teknolojileri İthalat İhracat Tic. Ltd. Sti*, WIPO Case No. [D2021-3304](#)) related to the domain name <solwaytechnology.com>, in which the Panel ordered the disputed domain name be transferred to the Complainant on December 31, 2021. Nevertheless, the Respondent registered the subject disputed domain name 15 days after the Panel's decision. The Complainant also expresses that, although the current Respondent was not formally identified as the respondent in the previous case, in the previous case the identified Respondent was the IT provider of Solvaytech Mühendislik Sanayi ve Ticaret Limited Şirketi and the current Respondent, A. Ozgur Polat, is the founder and director of the mentioned company based on the explanation of the identified Respondent of the previous case.

The Complaint also includes the following contentions:

(i) Identical or Confusingly Similar

The Complainant states that trademark SOLVAY is registered in several countries on behalf of the Complainant and in use since 2000, the disputed domain name incorporates the Complainant's trademark SOLVAY entirely along with the simply added descriptive term "teknoloji", the distinctive SOLVAY mark is clearly recognizable within the disputed domain name and it is confusingly similar to the trademarks in which the Complainant has rights.

(ii) Rights or legitimate interests

The Complainant asserts that even though the name of the Respondent's organization includes the term SOLVAYTECH, this does not mean that the Respondent is commonly known by the disputed domain name, besides the domain name does not incorporate the term SOLVAYTECH, in the previous WIPO Case No. [D2021-3304](#) the Panel concluded that the activities of the Respondent "strongly interfere with the Complainant's business activities and registered SOLVAY trademark rights."

The Complainant further states that the use of the Complainant's mark in the disputed domain name constitutes trademark infringement, the Respondent has not acquired any relevant trademark or service mark rights, the Respondent's use and registration of the disputed domain name was not authorized by the Complainant, the disputed domain name incorporates the distinctive and well-known SOLVAY trademark and company name of the Complainant entirely along with the simply added descriptive term "teknoloji" which is the Turkish translation of the word "technology", considering the Complainant's activities in the field of technology and its presence in Türkiye since 1998, the disputed domain name carries a high risk of implied affiliation with the Complainant, therefore, it impersonates or at least suggests sponsorship or endorsement by the Complainant and cannot constitute *bona fide* or even fair use, the Respondent registered the disputed domain name 15 days after the decision in the previous UDRP case mentioned above, and the disputed domain name resolves to a web page advertising various software, all links mentioning "more" redirect to a third party domain name <mailenable.com>.

(iii) Registration and Use in Bad Faith

The Complainant states that the Respondent obviously knew the Complainant and its trademarks at the time of registration and registered the disputed domain name in bad faith based on: the recent UDRP case filed by the Complainant; the statement of the Respondent in the mentioned case that he carried out a diligent search and was aware of the Complainant and its trademark SOLVAY; the well-known status of the Complainant and its trademarks all over the world including in Türkiye where the Respondent appears to reside; previous panels' decisions on the well-known status and distinctiveness of the Complainant's trademark SOLVAY.

The Complainant further asserts that as the disputed domain name resolves to a web page advertising various software services and the links mentioning "more" redirects to a third party domain name, the Respondent probably earns money through these pay-per-click links, there is no reason to use this mark in the disputed name and on the website linked to it other than to profit from the Complainant's reputation by creating a likelihood of confusion with its mark, the Respondent uses or will use the disputed domain name for fraudulent activity, e.g., by profiting of the likelihood of confusion with the Complainant's trademark for phishing activities, the disputed domain name has active MX records, meaning that the email function of the disputed domain name is enabled.

Finally, the Complainant claims that the Respondent has engaged in a pattern of registering domain names corresponding to the Complainant's mark and as a result, it is clear that Respondent registered and uses the disputed domain name in bad faith.

B. Respondent

The Respondent did not submit any substantive response, however, sent an informal communication email on September 21, 2022.

6. Discussion and Findings

6.1. Language of the Proceeding

Paragraph 11(a) of the Rules provides that: “Unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.”

Although the language of the Registration Agreement for the disputed domain name is Turkish, the Complainant argues that the language of the administrative proceeding should be English based on the fact that the Respondent must have a sufficient understanding of the English language as the disputed domain name refers to a web page which is exclusively in English and also refers to previous UDRP cases in which the Panels have decided to continue the proceedings in the language of the Complaint.

It is established practice to make a decision regarding the language of the proceeding to ensure fairness to the Parties and the maintenance of an inexpensive and expeditious avenue for resolving domain name disputes. In this case, the Panel notes that the language of the previous UDRP proceeding (in the WIPO Case No. [D2021-3304](#), mentioned above) is English, it is highly likely that the Respondent can understand English or at least is able to translate documents from/to English/Turkish, and that he has, nevertheless, failed to comment on the language of the proceeding.

Consequently, the Panel agrees with the issues asserted by the Complainant and determines English to be the language of this proceeding.

6.2. Substantive Proceedings

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three elements are present:

- (i) the disputed domain name registered by the Respondent 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

The Complainant submits evidence for its registered trademarks in the European Union and in several countries including Türkiye, through its international registration. Accordingly, the Panel is satisfied that the Complainant is the owner of the trademark SOLVAY.

The disputed domain name entirely incorporates the Complainant’s trademark and the term “solvay” is the distinctive term in the disputed domain name. The Panel notes that the mere addition of the Turkish term “teknoloji”, translated as “technology” in English, does not avoid the finding of confusing similarity with the Complainant’s trademark. As the trademark is recognizable within the disputed domain name, the addition of other terms would not prevent a finding of confusing similarity under the first element. (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) Section 1.8). As numerous prior UDRP panels have held, the fact that a domain name wholly incorporates a complainant’s registered mark is sufficient to establish identity or confusing similarity.

It is an accepted principle that generic Top-Level-Domains (“gTLDs”), in this case, “.com”, are to be typically disregarded in the consideration of the issue of whether a domain name is identical or confusingly similar to a complainant’s trademark. Disregarding the gTLD “.com”, the Panel notes that the disputed domain name

is confusingly similar to the Complainant's registered trademark.

In the light of the above, the Panel finds that the requirements in paragraph 4(a)(i) of the Policy are fulfilled.

B. Rights or Legitimate Interests

Once the Complainant makes out a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, the burden of production shifts to the Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name. ([WIPO Overview 3.0](#), section 2.1.)

The Panel confirms that the Complainant has made out a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent has neither replied to the Complainant's contentions formally nor presented any evidence to support his rights or legitimate interests in the disputed domain name. As the Respondent has failed to rebut this case, the Panel concluded that the Complainant has established the second element of paragraph 4(a) of the Policy. See *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#); *Spenco Medical Corporation v. Transure Enterprise Ltd*, WIPO Case No. [D2009-1765](#); *Swarovski Aktiengesellschaft v. blue crystal*, WIPO Case No. [D2012-0630](#); *Pomellato S.p.A v. Richard Tonetti*, WIPO Case No. [D2000-0493](#).

The Panel notes that the Respondent does not have any registered trademarks and no license or authorization of any other kind has been given by the Complainant to use its registered trademark. Even though the trade name of the Respondent contains the term "Solvaytech", the Respondent does not submit any documents proving that he has been commonly known by the domain name. There is no evidence of the Respondent's demonstrable preparations to use the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services, neither. Rather, the disputed domain name resolves to a web page advertising the software services of a third party and contains pay-per-click links to that third party's website. As several UDRP panels have held, such use of the domain name corresponding to the Complainant's trademark rights does not confer rights or legitimate interests arising from a *bona fide* offering of goods or services or from a legitimate noncommercial or fair use. ([WIPO Overview 3.0](#), section 2.9.)

As a result, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, and the requirements of paragraph 4(a)(ii) of the Policy are therefore fulfilled by the Complainant.

C. Registered and Used in Bad Faith

The Panel is satisfied with the relevant evidence filed by the Complainant showing that it owns trademark registrations for SOLVAY, which have been registered long before the registration of the disputed domain name and the Panel confirms the Complainant's trademark SOLVAY is well known around the world, especially in the chemical industry.

The Panel notes that the Respondent has been involved in the previous WIPO Case No. [D2021-3304](#) related to the domain name <solvaytechnology.com>, in which the identified Respondent was the IT provider of the current Respondent of this case and the Panel ordered to transfer the disputed domain name to the Complainant. Considering the previous UDRP case between the same parties and the similarity between the word elements of the disputed domain names, namely "solvaytechnology" and "solvayteknoloji", the Panel is in the opinion that it is not possible for the Respondent to have been unaware of the trademark of the Complainant when the disputed domain name was registered. Moreover, it is clearly understood by the decision of the previous UDRP case, the Respondent was aware of the Complainant and its trademark SOLVAY even before registering the previous domain name. The Panel finds that registering the quite similar domain name 15 days after the decision date of the previous UDRP case may be accepted as a pattern of conduct targeting the Complainant and a ground for finding registration and use in bad faith.

As pointed out by the Panel in the previous UDRP case, the Panel believes that the Respondent's aim of the registration was to take advantage of the possible confusion between the disputed domain name and the Complainant's well-known trademark. Therefore, the Panel is satisfied that the defaulting Respondent likely has the intention of misleading public to believe that there was/is some affiliation or business relationship with the Complainant. Several UDRP panels have held that registering and using domain names which correspond to widely-known trademarks suggests bad faith. (*Philip Morris USA Inc. v. Luca Brignoli*, WIPO Case No. [D2014-1180](#); *CHANEL, INC. v. ESTCO TECHNOLOGY GROUP*, WIPO Case No. [D2000-0413](#); *Educational Testing Service v. Eunho Hwang*, WIPO Case No. [D2017-0993](#); *Educational Testing Service v. Mohamed Ahmed Aljarwan*, WIPO Case No. [D2008-1073](#); *Parfums Christian Dior v. Javier Garcia Quintas and Christiandior.net*, WIPO Case No. [D2000-0226](#))

Further evidence of the Respondent's bad faith is that the Respondent not only registered the disputed domain name right after being informed of the likelihood of confusion with the Complainant's trademark by the previous UDRP decision but also let the disputed domain name to be used as a web page advertising the software services of a third party including the pay-per-click links to that third party's website. It has been established in numerous UDRP decisions that such conduct constitutes bad faith of the Respondent set out in paragraph 4(b)(iv) of the Policy.

Having considered all the facts in this case, the Panel finds that the Complainant has sustained its burden of proof in showing that the disputed domain name was registered and is being used in bad faith.

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, <solvayteknoloji.com> be transferred to the Complainant.

/Ugur G. Yalçiner/

Ugur G. Yalçiner

Sole Panelist

Date: October 11, 2022