

ADMINISTRATIVE PANEL DECISION

SOLVAY SA v. Sungkwan Cho (조성관)

Case No. D2023-1003

1. The Parties

The Complainant is SOLVAY SA, Belgium, represented by PETILLION, Belgium.

The Respondent is Sungkwan Cho (조성관), Republic of Korea.

2. The Domain Name and Registrar

The disputed domain name <solwayclub.com> is registered with Gabia, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on March 7, 2023. On March 7, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 8, 2023, 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 March 8, 2023, the Center notified the Parties in both English and Korean that the language of the registration agreement for the disputed domain name is Korean. On the same day, the Complainant requested for English to be the language of the proceeding. The Respondent sent an email to the Center on March 9, 2023, but did not formally comment on the language of the proceeding.

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 March 15, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 4, 2023. The Respondent sent emails to the Center on March 17, 2023, and April 5, 2023, but did not formally submit a response. On April 5, 2023, the Center informed the Parties of the Commencement of Panel Appointment Process.

The Center appointed Kathryn Lee as the sole panelist in this matter on April 24, 2023. 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 multinational chemical company specializing in high-performance polymers and composites technology based in Belgium. It was founded in 1863 and now has more than 21,000 employees in 63 countries. Its net sales in 2021 were EUR 10.1 billion. The Complainant owns a number of trademark registrations for SOLVAY including European Union trademark registration number 000067801 registered on May 30, 2000, European Union trademark registration number 011664091 registered on August 13, 2013, and international registration number 1171614 registered on February 28, 2013.

The Respondent appears to be an individual with an address in the Republic of Korea.

The disputed domain name was registered on February 4, 2023, and resolves to a blocked web page.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to the SOLVAY trademark in which the Complainant has rights. The Complainant explains that the disputed domain name incorporates the Complainant's trademark as a whole, and simply adds the term "club" which is descriptive and does not prevent a finding of confusing similarity.

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name and confirms that it has not authorized or licensed rights to the Respondent in any respect. The Complainant further contends that there is no evidence of the Respondent's use of, or 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.

Finally, the Complainant contends that the disputed domain name was registered and is used in bad faith. The Complainant contends that the disputed domain name was registered in bad faith since the Complainant is known internationally and a simple Internet search would have revealed information on the Complainant and its trademark. As for use in bad faith, the Complainant argues that the mere registration of a domain name that is confusingly similar to a famous trademark by an unaffiliated entity on its own creates a presumption of bad faith. The Complainant also argues that by registering the disputed domain name, the Respondent is preventing the Complainant from reflecting its mark in a corresponding domain name, which affects the Complainant's business and causes confusion among Internet users. The Complainant also notes that although there is no use of the disputed domain name, passive holding does not prevent a finding of bad faith since it is difficult to imagine any plausible future active use of the disputed domain name by the Respondent that would be legitimate and not infringing on the Complainant's rights. The Complainant also argues that the Respondent offered to sell the disputed domain name to the Complainant for USD 2,000 which is further evidence of the Respondent's bad faith.

B. Respondent

The Respondent did not formally reply to the Complainant's contentions. In its informal communication of March 9, 2023, the Respondent stated that the disputed domain name was not activated, asked the Complainant to prove how the disputed domain name adversely impacted the Complainant, and told the Complainant to buy the disputed domain name "in a legitimate way". In the Respondent's subsequent communications following the notification of the Complaint, the Respondent offered to give the disputed

domain name to the Complainant. Despite an invitation from the Center to suspend the proceeding to pursue possible settlement negotiations, the Complainant requested that the proceeding continue.

6. Discussion and Findings

A. Language

Paragraph 11(a) of the Rules provides that the language of the proceeding shall be the language of the registration agreement, unless otherwise agreed to by the parties, subject to the authority of the panel to determine otherwise. In this case, the language of the Registration Agreement is Korean, and both Parties have had an opportunity to argue their position on this point. The Center issued a notice in Korean and English stating that it would accept the Complaint filed in English, and that the Response would be accepted in either Korean or English. The Respondent subsequently chose not to submit a substantive response.

The Panel finds it proper and fair to render this decision in English. Given the fact that the Complainant is based in Belgium and the Respondent is based in the Republic of Korea, English would appear to be a fair neutral language for rendering this decision. Further, the Respondent has communicated in English with the Complainant in response to an offer for purchase and also with the Center in an informal response, both showing that the Respondent is quite capable in the English language. Besides, both Parties were given the opportunity to submit arguments in the language of their preference, and the language in which to render the decision is reserved for the Panel. The Panel would have considered a Response in Korean, but no Response was submitted. Accordingly, the Panel determines that rendering the decision in English is fair and procedurally efficient given the circumstances of this case.

B. Identical or Confusingly Similar

The Complainant has demonstrated with supporting evidence that it has rights to the trademark SOLVAY. As for the disputed domain name, it consists of “solvay” combined with the term “club”. According to WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.7, a domain name is considered confusingly similar to a trademark if it “incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name”. In this regard, the Complaint’s mark is readily recognizable within the disputed domain name, and therefore, the disputed domain name is confusingly similar to the Complainant trademark. The additional term “club” does not prevent a finding of confusing similarity (see [WIPO Overview 3.0](#), section 1.8).

For the reasons mentioned above, the Panel finds that the first element has been established.

C. Rights or Legitimate Interests

On the basis of the present record, the Panel finds that the Complainant has made the required allegations to support a *prima facie* case showing that the Respondent has no rights or legitimate interests in the disputed domain name. Once such a *prima facie* case has been established, the burden of production shifts to the Respondent to demonstrate its rights or legitimate interests in the disputed domain name, with the burden of proof always remaining with the Complainant. However, the Respondent in this case has chosen to file no substantive Response to these assertions by the Complainant, and there is no evidence or allegation in the record that would warrant a finding in favor of the Respondent on this point.

Besides, a respondent’s use of a domain name is not considered “fair” if it falsely suggests affiliation with the trademark owner. See [WIPO Overview 3.0](#), section 2.5.1. Here, the dominant element of the disputed domain name corresponds exactly to the Complainants’ trademark and carries a risk of implied affiliation.

For the reasons provided above, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, and that the second element has been established.

D. Registered and Used in Bad Faith

The Panel finds that there is sufficient evidence to find bad faith in this case.

Section 3.1 of the [WIPO Overview 3.0](#) provides that bad faith under the UDRP is “broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant’s mark”. Here, evidence suggests that the Respondent likely knew of the Complainant when registering the disputed domain name. First of all, the Panel finds that “solvay” is a distinctive term, and the Respondent has given no explanation for having registered a domain name containing this particular term. Further, information on the Complainant and its trademark would have been easily discoverable through an Internet search.

The disputed domain names do not currently display any content, but from the inception of the UDRP, UDRP panelists have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. See [WIPO Overview 3.0](#), section 3.3. Considering the distinctiveness of the SOLVAY mark, the Respondent’s failure to submit a formal response or provide any evidence of actual or contemplated good-faith use, and the implausibility of any good faith use to which the disputed domain name may be put, the Panel finds that the Respondent’s non-use of the disputed domain name does not prevent a finding of bad faith.

For the reasons given above, the Panel finds that the third element has been established.

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

/Kathryn Lee/

Kathryn Lee

Sole Panelist

Date: May 4, 2023