

ADMINISTRATIVE PANEL DECISION

Solvay SA v. J NC, At Times Yes
Case No. D2023-1610

1. The Parties

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

The Respondent is J NC, At Times Yes, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <solvay.gay> is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 13, 2023. On April 13, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 13, 2023, 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 (Contact Privacy Inc. Customer 0166947252) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 19, 2023, 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 April 21, 2023.

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 April 24, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 14, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 13, 2023.

The Center appointed 陈长杰 Jacob (Changjie) Chen as the sole panelist in this matter on June 16, 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, founded in 1863, is a global science company specialized in high-performance polymers and composites technologies, and is a leader in chemicals. The Complainant claims that it has registered offices in Brussels and has 22,000 employees in 61 countries, and the Complainant's net sales reached EUR 13.4 billion in 2022. The SOLVAY brand value was estimated at EUR 795 million in 2020.

The Complainant holds several registrations of SOLVAY trademark, including the European Union trademark registrations No. 000067801 and No. 011664091, registered respectively on May 30, 2000, and August 13, 2013; International trademark registration No. 1171614, registered on February 28, 2013, designating among others Unites States.

The Complainant also owns a domain name incorporating its SOLVAY trademark <solway.com>, registered on March 21, 1995.

According to the information disclosed by the Registrar, the Respondent is J NC, At Times Yes, located in the United States.

The disputed domain name was registered on April 4, 2023, and resolved to a blocked web page at the time of filing of the Complaint. At the time of this Decision, the disputed domain name resolves to the Registrar's parking page indicating that the disputed domain name is still being worked on and "Check back later".

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical to its SOLVAY trademark. The ".gay" Top-Level Domain ("TLD") does not prevent a finding of identity or confusing similarity between the disputed domain name and its trademark.

The Complainant further contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has no relationship with the Complainant, and the Complainant has not licensed or otherwise permitted the Respondent to use the SOLVAY trademark or to register a domain name incorporating this trademark. The disputed domain name refers to a blocked web page, which does not amount to any legitimate or fair use. Further, the nature of the disputed domain name carries a high risk of implied affiliation with the Complainant. In addition, the Respondent is not commonly known by the disputed domain name and has never acquired any trademark rights corresponding to the disputed domain name.

The Complainant finally contends that the disputed domain name was registered and is being used in bad faith. The SOLVAY trademark has obtained reputation under the Complainant's continuous use and operation, and the Respondent should have been aware of the trademark when registering the disputed domain name. Furthermore, the Respondent registered the disputed domain name with a deliberate intent to create an impression of an association with the Complainant and the passive holding of the disputed domain name does not prevent a finding of bad faith under the circumstances of this case.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant owns rights upon numerous registrations of SOLVAY trademark. The Complainant has successfully established its rights to the SOLVAY trademark.

It is well established that the TLD “.gay” as a standard registration requirement is disregarded in the assessment of the identity or confusing similarity between the disputed domain name and the Complainant’s trademark.

The disputed domain name <solvay.gay> incorporates the Complainant’s SOLVAY trademark in its entirety. Previous UDRP decisions have established that if a complainant’s trademark is recognizable within a domain name that is sufficient to establish that the domain name is identical or confusingly similar to the complainant’s trademark. See section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”).

Thus, the Panel concludes that the disputed domain name is identical to the SOLVAY trademark.

Accordingly, the Complainant has satisfied the first element under paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

The Complainant has submitted evidence to prove its rights to the SOLVAY trademark. The Respondent does not have connections with the Complainant and is not licensed or permitted by the Complainant to use the SOLVAY trademark or to register a domain name which incorporates this trademark. Furthermore, the Respondent is not commonly known by the disputed domain name.

The Panel is satisfied that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in respect of the disputed domain name, and the burden of production shifts to the Respondent. See section 2.1 of the [WIPO Overview 3.0](#). However, in this case, the Respondent has failed to come forward with any evidence giving rise to rights or legitimate interests in respect of the disputed domain name.

The disputed domain name previously resolved to a blocked page, and currently resolves to the Registrar’s parking page indicating that the disputed domain name is still being worked on and “Check back later”. Such use of the disputed domain name cannot be deemed as a *bona fide* offering of goods or services, or making a legitimate noncommercial or fair use.

In addition, the nature of the disputed domain name, being identical to the Complainant’s SOLVAY trademark, carries a high risk of implied affiliation. Such composition of the disputed domain name cannot constitute fair use as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See section 2.5.1 of the [WIPO Overview 3.0](#).

The Panel has weighed all available evidence and materials, and finds that the facts in this case do not support a finding of any rights or legitimate interests of the Respondent in respect of the disputed domain name.

Accordingly, the Panel concludes that the Complainant has satisfied the second element under paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

The Complainant’s SOLVAY trademark was registered far predating the registration date of the disputed domain name. According to the Complainant’s evidence, the Panel accepts that the Complainant and its SOLVAY trademark have gained a certain degree of reputation and recognition among relevant consumers

worldwide. Thus, the Panel views that the Respondent should have been aware of the Complainant and its SOLVAY trademark when registering the disputed domain name. Further, the Complainant's SOLVAY trademark is not a dictionary word, and it is of a certain distinctiveness. Therefore, considering the disputed domain name is identical to the Complainant's SOLVAY trademark without any reasonable explanation given by the Respondent, the Panel finds that, on the balance of probabilities, the Respondent likely registered the disputed domain name in order to target the Complainant and its trademark.

The disputed domain name previously resolved to a blocked web page, and currently resolves to the Registrar's parking page indicating that the disputed domain name is still being worked on and "Check back later". Although the disputed domain name does not appear to be in active use, considering the reputation of the Complainant's SOLVAY trademark, the lack of response from the Respondent, and the implausibility of any good faith use that the disputed domain name may be put noting particularly the disputed domain name is identical to the Complainant's SOLVAY trademark, the Panel finds that the apparent non-use of the disputed domain name in this case does not prevent a finding of bad faith under the doctrine of passive holding. See section 3.3 of the [WIPO Overview 3.0](#).

Given all the circumstances of the case, the Panel concludes that the Respondent registered and is using the disputed domain name in bad faith.

Accordingly, the Complainant has satisfied the third element under paragraph 4(a) 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, <solway.gay>, be transferred to the Complainant.

/陈长杰 Jacob (Changjie) Chen/

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Sole Panelist

Date: June 30, 2023