

## **ADMINISTRATIVE PANEL DECISION**

Solvay S.A. v. Dave Code, MarvyCapital  
Case No. D2023-4657

### **1. The Parties**

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

The Respondent is Dave Code, MarvyCapital, United States of America.

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

The disputed domain name <solvaytrades.com> is registered with PSI-USA, Inc. dba Domain Robot (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 9, 2023. On November 9 and 14, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 14, 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 (REDACTED FOR PRIVACY, MarvyCapital) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 15, 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 November 15, 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 November 17, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 7, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 13, 2023.

The Center appointed Gonalo M. C. Da Cunha Ferreira as the sole panelist in this matter on December 20, 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 Belgian company, founded in 1683, specialized in high-performance polymers and composites technologies and a leader in chemical products. The Complainant is present in 60 countries and has 22,000 employees worldwide.

The Complainant is owner of thousands of trademarks worldwide from which more than 800 containing the word SOLVAY *inter alia* the following trademark registrations:

European Union Trade Mark registration No. 000067801 for SOLVAY registered on May 30, 2000;

European Union Trade Mark registration No. 011664091 for SOLVAY registered on August 13, 2013;

International Trade Mark registration No. 1171614 for SOLVAY registered on February 28, 2013.

Further, the Complainant is the holder of *inter alia* the domain name <solway.com> registered since 1995.

The disputed domain name was registered on September 7, 2023, and resolve to a website that use the Complainant's logo which is also trademark registered worldwide, *inter alia* the following trademark registration:

International trademark registration No. 1180832 SOLVAY registered on March 28, 2013

The Respondent show on the top of his website the Complainant's logo adding the word "trades" and offer financial services describing themselves as "Solvay Trades Provides you with multiple investment options to get you on the right track financially. As the largest digital currency asset manager, Solvay Trades helps Investors access the ever-evolving digital economy to build their future in the present."

#### **5. Parties' Contentions**

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

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that:

1. the disputed domain name <solwaytrades.com> is confusingly similar to the Complainant's trademarks as it includes the Complainant's trademark SOLVAY in its entirety followed by the term "trades" which is a common term for commercial activities.
2. using the trademark "solway" the Respondent creates confusion as consumers may believe that the disputed domain name refers to the Complainant.
3. as previously pointed out in many Administrative Panel decisions, the addition of the generic Top-Level Domain ".com" to the disputed domain name does not avoid confusing similarity.
4. the Respondent has not been commonly known by the disputed domain name or own any trademark corresponding to the disputed domain name.
5. the Respondent has not been licensed or authorized to use the trademark SOLVAY or any domain name including this trademark.

6. the Respondent has no right or legitimate interest to use and register the disputed domain name as the Complainant has prior and exclusive rights on the name SOLVAY.
7. The degree of reputation of the Complainant's of its trademarks and activities is such that the Respondent could not ignore the existence of the Complainant's prior rights.
8. the Respondent clearly infringes the Complainant's trademark's rights by using Complainant's logo which is a trademark that is registered worldwide.
9. the fact that the Respondent has chosen for the disputed domain name a known trademark and uses the logo of the Complainant is a clear indication that the registration of the disputed domain name was made in bad faith.
10. the Respondent try to take unfair advantage of the reputation of the Complainant by drawing the attention of the consumer who will believe that the Respondent and the Complainant are the same company.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **A. Identical or Confusingly Similar**

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms "trades" could bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

In *Solvay SA v. Domains By Proxy, LLC / Sreenivasulu Uppari, Gnapika Solutions*, WIPO Case No. [D2022-1106](#)) regarding the domain name <solwaytrade.com> the Panel found that the disputed domain name entirely incorporates the Complainant's trademark SOLVAY and this is a sufficient element to establish confusing similarity, as held by many previous UDRP panels.

Based on the available record, the Panel finds the first element of the Policy has been established.

### **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with

relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Based on the available record, the Panel finds the second element of the Policy has been established.

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

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Respondent has chosen for the disputed domain name a known trademark and uses the logo of the Complainant trying to take unfair advantage of the reputation of the Complainant by drawing the attention of the consumer who will believe that the Respondent and the Complainant are the same company which is clear the example of bad faith under paragraph 4(b)(iv) of the Policy.

Based on the available record, the Panel finds that the Complainant has established the third element 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 <solvaytrades.com> be transferred to the Complainant.

*/Gonçalo M. C. Da Cunha Ferreira/*

**Gonçalo M. C. Da Cunha Ferreira**

Sole Panelist

Date: January 3, 2024