

ADMINISTRATIVE PANEL DECISION

Solvay SA v. Patrick Patrick Jarnet
Case No. D2023-5000

1. The Parties

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

The Respondent is Patrick Patrick Jarnet, France.

2. The Domain Name and Registrar

The disputed domain name <global-solvay.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 30, 2023. On December 1, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 1, 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 (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 4, 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 December 8, 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 December 12, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 1, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 10, 2024.

The Center appointed Kiyoshi Tsuru as the sole panelist in this matter on January 16, 2024. 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 SOLVEY, S.A., a science company, leader in chemicals and materials such as high-performance polymers and composite technologies, providing solutions and applications in many sectors such as agriculture, personal care, health care, consumer food, automotive, aerospace, and electronics.

The Complainant was founded in 1863, is headquartered in Brussels with offices in more than 60 countries, has about 22,000 employees, and in 2022 its net sales reached 13.4 billion euro.

Trademark	No. Registration	Jurisdiction	Date of Registration
SOLVAY	000067801	European Union	May 30, 2000
SOLVAY	011664091	European Union	August 13, 2013
SOLVAY	1171614	Albania, Armenia, Australia, Azerbaijan, Bahrain, Belarus, Bosnia and Herzegovina, Colombia, Cuba, Democratic People's Republic of Korea, Egypt, Georgia, Ghana, Iceland, Israel, Japan, Kazakhstan, Kenya, Kyrgyzstan, Liberia, Liechtenstein, Mexico, Monaco, Mongolia, Montenegro, Morocco, Namibia, North Macedonia, Norway, Oman, Philippines, Republic of Korea, Republic of Moldova, Russian Federation, San Marino, Serbia, Singapore, Sudan, Switzerland, Syrian Arab Republic, Tajikistan, Türkiye, Turkmenistan, Ukraine, United States of America, Uzbekistan, Viet Nam, Zambia, Iran, New Zealand.	February 28, 2013

The Complainant owns the domain name <solway.com>, which resolves to its official website.

The Respondent registered the disputed domain name <global-solvay.com> on November 10, 2023. The disputed domain name resolves to a parked website that comprises *pay-per-click* links.

5. Parties' Contentions

A. Complainant

The Complainant argued the following:

I. Identical or Confusingly Similar

That the disputed domain name is confusingly similar to the Complainant's trademarks as it is including the Complainant's trademark SOLVAY in its entirety, preceded by the term GLOBAL and followed by the gTLD ".com"

That the incorporation of the trademark SOLVAY in the disputed domain name creates confusion as consumers may believe that it refers to the Complainant.

That the addition of the gTLD ".com" to the disputed domain name does not avoid confusing similarity.

II. Rights or Legitimate Interests

That the Respondent has not been commonly known by the disputed domain name.

That the Respondent does not own any trademark corresponding to the disputed domain name.

That the Complainant has not licensed or otherwise authorized the Respondent to use its trademark SOLVEY or any domain name including said trademark.

That the disputed domain name resolves to a parked page compromising *pay-per-click* links.

That it is well established that operating a parked page compromising PPC links using a distinctive trademark in a domain name, and providing connections to goods and services competitive with those covered by a complainant's trademark does not establish rights or legitimate interests in favor of a respondent.

III. Registered and Used in Bad Faith

That the reputation of the Complainant's trademark and its activities around the world are such that the Respondent could not have ignored the existence of the Complainant's prior rights, and that it is therefore not conceivable that the Respondent did not have in mind the Complainant's trademark SOLVAY when registering the disputed domain name.

That the Respondent has intentionally attempted to attract, for commercial gain, Internet users to his website or other on-line location, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation or endorsement of the Respondent's website or location.

That the fact that the Respondent has chosen as a domain name a known trademark is a clear indication that the use and registration of the disputed domain name have been made in bad faith.

That the fact that the disputed domain name resolves to a parked page comprising *pay-per-click* links referring to activities that are similar to those of the Complainant constitutes evidence that the Respondent is trying to benefit from the goodwill associated with the Complainant's trademark and is strong evidence of bad faith.

B. Respondent

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

6. Discussion and Findings

Given the Respondent's failure to submit a formal response, the Panel may decide this proceeding based on the Complainant's undisputed factual allegations under paragraphs 5(f), 14(a), and 15(a) of the Rules (see *Joseph Phelps Vineyards LLC v. NOLDC, Inc., Alternative Identity, Inc., and Kentech*, WIPO Case No. [D2006-0292](#), and *Encyclopaedia Britannica, Inc. v. null John Zuccarini, Country Walk*, WIPO Case No. [D2002-0487](#)).

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 for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

While the addition of other elements/terms such as “global” present in the disputed domain name <global-solvay.com> may 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.

The addition of the generic Top-Level Domain (“gTLD”) “.com” to the disputed domain name constitutes a technical requirement of the Domain Name System (“DNS”). Thus, it has no legal significance in assessing identity or confusing similarity in the present case (see *CARACOLITO S SAS v. Nelson Brown, OXM.CO*, WIPO Case No. [D2020-0268](#); *SAP SE v. Mohammed Aziz Sheikh, Sapteq Global Consulting Services*, WIPO Case No. [D2015-0565](#); and *Bentley Motors Limited v. Domain Admin / Kyle Rocheleau, Privacy Hero Inc.*, WIPO Case No. [D2014-1919](#)).

The Panel finds the entirety of the trademark SOLVAY is reproduced in the disputed domain name <global-solvay.com>. Accordingly, this disputed domain name is confusingly similar to said mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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 to 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 record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights to or legitimate interests in the disputed domain name. The Complainant has asserted that there is no evidence of the Respondent’s use of the disputed domain name in connection with a *bona fide* offering of goods or services, and that the Respondent has not been licensed or otherwise permitted by the Complainant to use the SOLVAY trademark, or to register the disputed domain name (see *Amdocs Development Ltd. and Amdocs Software Systems Ltd. v. cenk erdogan*, WIPO Case No. [D2023-3044](#); *Amdocs Development Ltd. and Amdocs Software Systems Ltd. v. Nick Lamba*, WIPO Case No. [D2023-2573](#) and *Autodesk, Inc. v. Brian Byrne, meshIP, LLC*, WIPO Case No. [D2017-0191](#)). The Respondent has not rebutted the Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights to or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

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.

The Complainant has ascertained its rights over the SOLVAY trademark in different jurisdictions, including France, where the Respondent has declared to have his domicile. The dates of registration of the Complainant's trademarks significantly precede the date of registration of the disputed domain name.

Given the fact that SOLVAY is a fanciful trademark, which is not a dictionary word, and that the Complainant (founded in 1863) and its trademark SOLVAY have a widespread market presence internationally, this Panel finds that the Respondent knew the Complainant at the time of registration of the disputed domain name. Therefore, the registration of the disputed domain name, which entirely comprises said trademark SOLVAY, constitutes bad faith registration under the Policy. (See section 3.2.2 of the [WIPO Overview 3.0](#); see also *TTT Moneycorp Limited v. Privacy Gods / Privacy Gods Limited*, WIPO Case No. [D2016-1973](#) "The Panel infers, in the absence of any submissions, explanation or evidence to the contrary, that Respondent knew or must have known of Complainant's TRADE MARK at the time it registered the Domain Name. The MONEYCORP trademark has been in public use since approximately 1979 and Complainant has previously registered Complainant's Trademark in at least the United Kingdom and the United States of America. It is therefore reasonable to infer that Respondent knew or must have known of Complainant's Trademark.").

The fact that the Respondent registered the disputed domain name which entirely reproduces the Complainant's trademark SOLVAY shows that the Respondent has targeted the Complainant, which conduct constitutes opportunistic bad faith (see section 3.2.1 of the [WIPO Overview 3.0](#); see also *L'Oréal v. Contact Privacy Inc. Customer 0149511181 / Jerry Peter*, WIPO Case No. [D2018-1937](#); and *Gilead Sciences Ireland UC / Gilead Sciences, Inc. v. Domain Maybe For Sale c/o Dynadot*, WIPO Case No. [D2019-0980](#)).

Moreover, the disputed domain name resolves to a parked website comprising *pay-per-click* links. Therefore, this Panel considers that the Respondent is trying to capitalize on the reputation and goodwill of the Complainant by misleading Internet users, for commercial gain, to the website to which the disputed domain name resolves (and the websites to which the *pay-per-click* links re-direct) by creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of said websites, which constitutes bad faith under paragraph 4(b)(iv) of the Policy (see section 3.1.4 of the [WIPO Overview 3.0](#); see also *Ustream.TV, Inc. v. Vertical Axis, Inc.*, WIPO Case No. [D2008-0598](#). "The Respondent's use of the disputed domain name for a PPC parking page constitutes bad faith use because the Respondent is attracting Internet users to its website by causing confusion as to whether its website is, or is associated with, the Complainant or its services. This conduct disrupts the Complainant's business by diverting consumers away from the Complainant's website. The diversion is for the Respondent's commercial gain because the Respondent receives PPC revenue from those visitors to its website who click through to the advertising on the site. Thus, the Respondent's conduct constitutes classic bad faith registration and use under paragraph 4(b)(iv) of the Policy [...]").

Based on the available record, the Panel finds the third element of the Policy 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 <global-solvay.com> be transferred to the Complainant.

/Kiyoshi Tsuru/

Kiyoshi Tsuru

Sole Panelist

Date: January 30, 2024