

ADMINISTRATIVE PANEL DECISION

Solvay SA v. Abdullah Fayyaz, PTH INSTITUTE
Case No. D2024-0674

1. The Parties

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

The Respondent is Abdullah Fayyaz, PTH INSTITUTE, Pakistan.

2. The Domain Name and Registrar

The disputed domain name <solvaypharmaceuticals.store> is registered with GoDaddy.com, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 13, 2024. On February 14, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 14, 2024, 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 (Domains by Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 16, 2024, 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 February 19, 2024.

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 February 20, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 11, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 12, 2024.

The Center appointed Meera Chature Sankhari as the sole panelist in this matter on March 15, 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 SOLVAY SA is a science company, founded in 1863, with headquarters in Brussels, Belgium. It is involved in chemicals and materials such as high-performance polymers and composite technologies, providing solutions and applications in many sectors such as agriculture, personal care, healthcare, consumer food, automotive, aerospace or electronics. The Complainant owns offices and production sites in more than 60 countries, employing about 22,000 people. In 2022, the net sales reached EUR 13.4 billion.

The Complainant is the owner of thousands of trademarks worldwide, of which 800 contain the trademark SOLVAY and some of the trademark registrations secured by the Complainant are mentioned below:

Trademark	Class(s)	Registration no.	Country	Registered since
SOLVAY	1, 3, 4, 5, 7, 9, 10, 12, 17, 19, 20, and 31	No. 000067801	European Union	May 30, 2000
SOLVAY	1, 2, 3, 4, 5, 7, 9, 10, 12, 17, 22, 23, 24, 25, 30, 31, 35, 36, 37, 40, and 42	No. 011664091	European Union	August 13, 2013
SOLVAY	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	No. 1171614	International trademark registration	February 28, 2013
SOLVAY	5	No. 336366	Pakistan	March 18, 2013

It may be pointed out that it is not clear whether the Pakistan registration obtained by the Complainant has been renewed and subsists. Having said that, the Panel does not believe this will bear on the decision in this case.

The Complainant is also the owner of hundreds of domain names including the trademark SOLVAY. The most relevant being registered since 1995, <solway.com> and <solway.be> and many other country code Top-Level Domains from all over the world.

The disputed domain name <solwaypharmaceuticals.store> was created on December 13, 2023. The disputed domain name is being used by the Respondent reportedly located in Pakistan. The disputed domain name contains the term "solway" along with the word "pharmaceuticals". The disputed domain name is operational and is being used in relation to an online shop of pharmaceuticals. A number of pharmaceutical products are listed and offered for sale on the disputed domain name.

The Respondent has not replied to the ongoing dispute proceedings.

5. Parties' Contentions

A. Complainant

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

(i) that the domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

(ii) that the Respondent has no rights or legitimate interests in respect of the domain name; and

(iii) the domain name has been registered and is being used in bad faith.

On the first element, the Complainant contends that the disputed domain name is confusingly similar to Complainant's trademark as it includes the Complainant's trademark SOLVAY in its entirety followed by the term "pharmaceuticals" and by the generic Top-Level Domain ("gTLD") ".store". The Complainant contends that by creating the disputed domain name, the Respondent is creating confusion and the consumers may believe that the disputed domain name refers to the Complainant. The Complainant further contends and relies upon *Solvay S.A. v. Brent Jones*, WIPO Case No. [D2023-4915](#) to contend that the addition of other term, in this case "pharmaceuticals", may have a bearing on assessment of the second and third elements but does not deter the Panel from arriving at a finding of confusing similarity between the disputed domain name and the mark belonging to the Complainant.

Regarding the second element, the Complainant contends that neither does the Respondent own any trademark corresponding to the disputed domain name nor has the Complainant licensed/authorized the Respondent to use its trademark or any domain name including the trademark SOLVAY. Accordingly, the Complainant contends that the Respondent lacks rights or legitimate interests in the disputed domain name.

On the last and third element, the Complainant contends that it enjoys a reputation in their trademark SOLVAY, due to their intensive, long standing, and worldwide use. The Complainant further contends that it is impossible that the Respondent did not have the Complainant's trademark in mind at the time of registering the disputed domain name.

The Complainant argues that, by registering the disputed domain name, using an otherwise known trademark, i.e., the Complainant's SOLVAY trademark, it has intentionally attempted to attract, for gain, Internet users to its website or other online location, by creating likelihood of confusion with mark as to the source, sponsorship, affiliation or of the Respondent website or location.

The Complainant further alleges that the Respondent is using on its website, the Complainant's registered trademark and logo, both of which are registered, and which thus infringes the Complainant's rights.

The fact that the Respondent is using the Complainant's trademark and logo is another clear indication that the use and registration of the disputed domain name was made in bad faith. Indeed, the Complainant states that from such use, the Respondent is 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 or at least related companies.

As a last and final ground for establishing bad faith, the Complainant highlights the use of the privacy service by the Respondent, which are used by the cybersquatters to hide their identity.

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.

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 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.

The Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is identical and confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. It is well established that the addition of a gTLD extension (such as “.store” in this case) is generally irrelevant when determining whether a domain name is confusingly similar to a Complainant’s trademark.

Although the addition of the term “pharmaceuticals” 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 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.

The Panel finds that the composition of the disputed domain name, namely the descriptive addition of “pharmaceuticals” to the Complainant’s SOLVAY trademark and the use of the “.store” gTLD, carries a risk of implied affiliation to the Complainant, contrary to the fact, which cannot constitute fair use. [WIPO Overview 3.0](#), section 2.5.1.

Panels have held that the use of a domain name for illegal activity, such as sale of counterfeit goods or illegal pharmaceuticals, phishing, impersonation can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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's registration and utilization of the disputed domain name demonstrate bad faith, a claim which the Respondent failed to contest. The usage of the Complainant's registered trademark indicates that the Respondent was aware of the Complainant's rights at the time of registering the disputed domain name. Moreover, as indicated above, the Complainant is the owner of at least one trademark registration in the reported residence of the Respondent, namely "Pakistan", and regardless of said mark's current status, given the global nature of the Internet, any cursory Internet search for the term "solvay" would have raised the Complainant's rights to the attention of the Respondent. By using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product on the Respondent's website or location. [WIPO Overview 3.0](#), section 3.1.4

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1. The Respondent's website that is operational under the disputed domain name uses the registered trademark and logo belonging to the Complainant, which clearly indicates that the Respondent was targeting the Complainant and certainly had knowledge of the Complainant's trademark and the reputation related thereto.

Panels have held that the use of a domain name for illegal activity, such as sale of counterfeit goods or illegal pharmaceuticals, phishing, impersonation, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

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 <solvaypharmaceuticals.store> be transferred to the Complainant.

/Meera Chature Sankhari/

Meera Chature Sankhari

Sole Panelist

Date: March 29, 2024