

ADMINISTRATIVE PANEL DECISION

Solvay S.A. v. AGABA DEO, PREMIUM PLUS

Case No. D2024-1695

1. The Parties

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

The Respondent is AGABA DEO, PREMIUM PLUS, Uganda.

2. The Domain Name and Registrar

The disputed domain name <solwayfr.com> 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 April 22, 2024. On April 23, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 24, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 24, 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 April 25, 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 May 2, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 22, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 23, 2024.

The Center appointed Beatrice Onica Jarka as the sole panelist in this matter on May 29, 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 a global leader in chemicals and materials production 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.

Founded in 1863, the Complainant is headquartered in Brussels and owns offices and production sites in more than 60 countries, employing about 22.000 people.

In 2022, the Complainant net sales reached EUR 13.4 billion.

The Complainant is the owner of thousands of trademarks worldwide from which more than 800 containing the trademark SOLVAY, the most relevant being:

- European Union trademark registration no. 000067801 for the word mark SOLVAY, registered since May 30, 2000, in classes 1, 3, 4, 5, 7, 9, 10, 12, 17, 19, 20 and 31;
- European Union trademark registration no. 011664091 for the word mark SOLVAY, registered since August 13, 2013, in classes 1, 2, 3, 4, 5, 7, 9, 10, 12, 17, 22, 23, 24, 25, 30, 31, 35, 36, 37, 40 and 42;
- International trademark registration no. 1171614 for the word mark SOLVAY, registered since November 25, 2016, in classes 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; and
- US trademark registration no. 2770637 for the word mark SOLVAY, registered since October 7, 2003, in classes 1, 5, 17 and 31.

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

The Respondent, as was disclosed by the Registrar, is AGABA DEO, PREMIUM PLUS, Uganda. The disputed domain name was registered on February 9, 2024 and it redirected to the Complainant's website, while previously it was landing on an anonymous page, stating that the account was suspended. The disputed domain name currently resolves to an account suspended page.

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:

- The disputed domain name is confusingly similar to Complainant's trademarks as it includes the Complainant's trademark SOLVAY in its entirety followed by the letters "fr", which, when used in a domain name, undoubtedly evoke the abbreviation for or the ccTLD related to France;
- The term "solway" therefore occupies a distinctive and dominant position in the disputed domain name;
- By using SOLVAY in the disputed domain name, the Respondent creates confusion as consumers may believe that disputed domain name refers to the Complainant;

- The <solwayfr.com> website is currently redirecting to the Complainant's website. A few days earlier, it was landing on an anonymous page, stating that the account was suspended;
- To the best of Complainant's knowledge, the Respondent does not own any trademark corresponding to the disputed domain name;
- To the best of Complainant's knowledge, the Respondent has not been commonly known by disputed domain name;
- Consequently, 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;
- As the SOLVAY trademarks enjoy reputation due their intensive, long-standing and worldwide use, the Respondent could not ignore the existence of Complainant's prior rights and it is not conceivable that the Respondent did not have in mind the Complainant's trademarks when registered the disputed domain name;
- The Complainant contends that the disputed domain name was registered and used in bad faith. Bad faith is generally accepted in case where, 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 likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation or endorsement of the Respondent's website or location;
- The fact that the Respondent has chosen as a domain name a well-known trademark is a clear indication that the use and registration of the disputed domain name was made in bad faith;
- The use of a privacy registration service is another indication of bad faith as such services are notably used by cybersquatters to hide their identity.

B. Respondent

Although procedurally summoned, 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, as it includes the Complainant's trademark SOLVAY in its entirety followed by the letters "fr". The mere addition of the geographical term "fr" (the country extension for France) does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark, but may bear on assessment of the second and third elements. [WIPO Overview 3.0](#), section 1.8.

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 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 disputed domain name. 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.

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.

There is no available record that the Respondent owns any trademark corresponding to the disputed domain name nor that the Respondent has been commonly known by disputed domain name.

The disputed domain name at one point redirected Internet users to the Complainant’s website and it currently resolves to an account suspended page. No such use could be considered bona fide use of the disputed domain name, as bona fide use cannot be inferred from such the aforementioned redirection.

Accordingly, 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 could not ignore the existence of Complainant’s prior rights and it is not conceivable that the Respondent did not have in mind the Complainant’s trademarks when registered the disputed domain name, as the SOLVAY trademarks enjoy reputation due their intensive, long-standing and worldwide use;
- 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 was made in bad faith and further comforts the Panel that the Respondent was aware of, and intended to capitalize on, the Complainant’s trademarks and reputation;
- the Respondent creates confusion among Internet users by incorporating the Complainant’s trademark in its entirety with an additional geographical term “fr” and using its to redirect to the Complainant’s official website;
- in *Solvay SA v. Name Redacted*, WIPO Case No. [D2023-0235](#), the Panel found that “the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith.”; and
- the use of a privacy registration service on the publicly-available WhoIs is another indication of bad faith.

Furthermore, [WIPO Overview 3.0](#), section 3.1.4 provides that the respondent redirecting a domain name to the complainant’s website can establish bad faith insofar as the respondent retains control over the redirection thus creating a real or implied ongoing threat to the complainant.

The Panel finds that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation or endorsement of the Respondent website or location. The current non-use of the disputed domain name does not alter the Panel's finding.

Accordingly, 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 <solvayfr.com> be transferred to the Complainant.

/Dr. Beatrice Onica Jarka/

Dr. Beatrice Onica Jarka

Sole Panelist

Date: June 12, 2024