

ADMINISTRATIVE PANEL DECISION

Solvay S.A. v. sebastien lefort, Solvay
Case No. D2024-3932

1. The Parties

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

The Respondent is sebastien lefort, Solvay, France.

2. The Domain Name and Registrar

The disputed domain name <solvay-fr.com> is registered with Squarespace Domains II LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 25, 2024. On September 25, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 26, 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 (Redacted For Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 30, 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 October 4, 2024.

On September 30, 2024, the Center informed the parties in French and English, that the language of the registration agreement for the disputed domain name is French. On October 4, 2024, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not submit any comment on the Complainant's submission.

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 October 8, 2024. In accordance with the Rules, paragraph

5, the due date for Response was October 28, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 30, 2024.

The Center appointed Anne-Virginie La Spada as the sole panelist in this matter on November 5, 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 large science company, based in Belgium, active in the fields of materials, chemicals and solutions. The Complainant has 22,000 employees and a presence in more than 60 countries.

The Complainant is the owner of numerous trademarks containing the word SOLVAY, including:

- European Union trademark registration no. 000067801 for SOLVAY, registered on May 30, 2000, in classes 1, 3, 4, 5, 7, 9, 10, 12, 17, 19, 20 and 31;
- International trademark registration no. 1171614 for SOLVAY, registered on February 28, 2013, in classes 1, 2, 3, 4, 5, 7, 9, 10, 12, 17, 19, 22, 23, 24, 25, 30, 31, 35, 36, 37, 39, 40 and 42.

The Complainant is also the owner of various domain names containing the word "solvay", including <solvay.fr>.

The disputed domain name was registered on July 17, 2024, and, at the time of filing of the Complaint, redirected Internet users to a website with the mention "under construction".

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 its SOLVAY trademark as it captures the entirety of its trademark with the mere adjunction of the letters "fr", which evoke the country extension for France. According to the Complainant, the term "solvay" occupies a distinctive and dominant position in the disputed domain name.

The Complainant alleges that the disputed domain name was registered by the Respondent on behalf of the organization "Solvay", at an address that is effectively an address where the Complainant has an establishment. The Complainant therefore believes that the Respondent is pretending to be one of its employees in order to make the registration of the disputed domain name seem legitimate. Moreover, the Complainant contends that the Respondent has not been commonly known by the disputed domain name nor does he own any trademark corresponding to the disputed domain name. The Complainant therefore considers that the Respondent has no rights or legitimate interests to use and register the disputed domain name.

Finally, the Complainant contends that the Respondent has used and registered the disputed domain name in bad faith. Considering the degree of reputation of the Complainant's trademarks and activities, the Respondent was aware of the existence of the Complainant and of its trademarks when he registered the disputed domain name. The fact that the Respondent has chosen, a known trademark to create the disputed domain name is a clear indication that the use and registration of the disputed domain name was made in

bad faith. According to the Complainant, 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. Moreover, the absence of active use of the disputed domain name would not prevent a finding of bad faith use under the doctrine of passive holding given the overall circumstances of the case, including in particular, the high degree of distinctiveness and reputation of the mark SOLVAY.

B. Respondent

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

6. Discussion and Findings

6.1. Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is French. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English because it had initially understood the language of the Registration Agreement to be English and because the translating of the Complaint would entail substantial expenses and would impose a significant and undue burden on the Complainant. Furthermore, carrying out a translation would significantly delay the proceedings and prolong the prejudice caused to the Complainant by the use and registration of the disputed domain name.

The Respondent did not make any specific submissions with respect to the language of the proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

In the present case, in view of the elements put forward by the Complainant, and in particular the absence of a reply from the Respondent, despite the fact that the Center sent notifications to the Respondent in French and English concerning the language of the proceedings and the commencement of an administrative proceeding, it would be disproportionate to require the Complainant to translate the Complaint into French.

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

6.2 Substantive elements of the Policy

According to paragraph 4(a) of the Policy, a complainant must assert and prove each of the following:

- (i) the domain name registered by the respondent is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) the respondent has no rights or legitimate interests in respect of the domain name; and
- (ii) the domain name registered by the respondent has been registered and is being used in bad faith.

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 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.

Although the addition of other terms (here "fr") 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 that 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.

A respondent's use of a domain name will not be considered "fair" if it falsely suggests affiliation with the trademark owner. [WIPO Overview 3.0](#), section 2.5.1.

In the present case, the Panel observes that the disputed domain name carries a risk of implied affiliation with the Complainant, as it combines the Complainant's trademark with the term "fr", which may easily be recognized as a country code referring to France, thus suggesting sponsorship or endorsement by the trademark owner and/or that the disputed domain name in question corresponds to the Complainant's official website for the country at issue. See [WIPO Overview 3.0](#) section 2.5.

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 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.

Given that the trademark SOLVAY of the Complainant has been widely used before the registration of the disputed domain name, and that the Respondent has indicated an address corresponding to one of the Complainant's site in France as his own address when registering the disputed domain name, the Panel accepts that the Respondent was aware of the existence of the Complainant and of its SOLVAY trademark at the time of the registration of the disputed domain name. Accordingly, the Panel finds that the disputed domain name was registered in bad faith.

In the present case, there is no indication that the Respondent made any use of the disputed domain name, other than connecting it to an "under construction" webpage.

Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds that the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness and reputation of the Complainant's trademark, and the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Indeed, the Respondent failed to submit a response or provide any evidence of actual or contemplated good-faith use even though he appears to have received notification of the Complaint by email from the Center. This corroborates the implausibility of a good faith holding of the disputed domain name by the Respondent.

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 <solvay-fr.com> be transferred to the Complainant.

/Anne-Virginie La Spada/
Anne-Virginie La Spada
Sole Panelist
Date: November 22, 2024