

ADMINISTRATIVE PANEL DECISION

SOLVAY Société Anonyme v. Privacy Service Provided by Withheld for Privacy ehf / Simon Lubwama
Case No. D2022-0792

1. The Parties

The Complainant is SOLVAY Société Anonyme, Belgium, represented internally.

The Respondent is Privacy Service Provided by Withheld for Privacy ehf, Iceland / Simon Lubwama, Uganda.

2. The Domain Name and Registrar

The disputed domain name <solvychemie.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 March 7, 2022. On March 8, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 8, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on March 9, 2022, 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 March 9, 2022.

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 March 15, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 4, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 5, 2022.

The Center appointed Alvaro Loureiro Oliveira as the sole panelist in this matter on April 20, 2022. 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 the Belgian company SOLVAY Société Anonyme, a leader in retail, specialized in high-performance polymers and composites technologies, and a leader in chemicals. The Complainant is part of a large group that was created in 1863 and has its principal offices in Brussels.

The Complainant operates in 64 countries worldwide, with 23,000 employees, with net sales of EUR 8.9 billion in 2020 (see Annex 4 of the Complaint).

The Complainant owns several registrations for its mark SOLVAY worldwide, the oldest one being European Union Trade Mark registration No. 000067801, dating back to May 30, 2000. A proof of these registrations was attached to the Complaint as Annex 5.

The Complainant states that the mark SOLVAY is used extensively, including on social media, and has been ranked for several years in the top 10 most powerful and valuable Belgian brands. The SOLVAY mark's value was estimated at EUR 795 million in 2020. The Complainant has established rights over the mark SOLVAY internationally, and its fame and renown are linked to the Complainant. The Complainant presented substantial evidence of this renown, in Annex 6 of the Complaint.

The disputed domain name was registered on February 28, 2022. The disputed domain name does not resolve to an active website but used to resolve to a Registrar's parked website.

5. Parties' Contentions

A. Complainant

The Complainant is the owner of registrations worldwide for the mark SOLVAY, which has been in use for over 20 years. The Complainant contends that the disputed domain name is confusingly similar to the Complainant's mark registered and used worldwide.

In fact, the only distinctive word integrating the disputed domain name is "solvay", which is identical to the Complainant's registered mark, the remaining element being "chemie", which refers directly to the main specialization of the Complainant, chemicals – being "chemie" German for "chemistry".

As stated by the documents presented, the registration and use of the trademark SOLVAY predates the registration of the disputed domain name in decades.

The disputed domain name refers to a webpage stating "Our website is ready to go! Hosting account was successfully created on the server. Nameservers have been set up properly DNS propagation is completed". Nevertheless, the Complainant considers that the disputed domain name may be used to perpetrate fraudulent schemes, such as the ones the Complainant has recently suffered under other misregistered domain names and which are object of different cases.

In sum, the Complainant alleges that the registration and use of the disputed domain name is intentional to mislead Internet users by leading them to phishing scams, that it is clear that the Respondent has no rights or legitimate interests in the disputed domain name, and that the disputed domain name was registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

The Policy, in its paragraph 4(a), determines that three elements must be present and duly proven by the Complainant to obtain relief. These elements are:

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

A. Identical or Confusingly Similar

The disputed domain name is, indeed, confusingly similar to the SOLVAY trademark, as the latter is entirely incorporated in the disputed domain name, with the mere addition of the word "chemie".

The Complainant has presented consistent evidence of ownership of the trademark SOLVAY in jurisdictions throughout the world, by presenting International registrations for it, as well as comprehensive evidence of the use of the trademark for over two decades.

The use of the trademark with the addition of the expression "chemie" in the disputed domain name does not prevent a finding of confusing similarity with the trademark.

Given the above, the Panel concludes that the disputed domain name is confusingly similar to the registered trademark of the Complainant.

B. Rights or Legitimate Interests

Given the clear evidence that the trademark SOLVAY is registered in the Complainant's name and is widely known as identifying the Complainant's activities, and that the Complainant has not licensed this to the Respondent, the Panel finds that the Complainant has established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name.

In the absence of a Response, the Respondent has not rebutted such *prima facie* case. Furthermore, the Respondent does not appear to be commonly known by the disputed domain name.

It has also been shown that the Respondent is not making any direct use of the disputed domain name, noting the disputed domain name resolved to a Registrar's parked page and currently does not resolve to an active website. The Respondent is not making a noncommercial or fair use of the disputed domain name, nor a *bona fide* offering of goods or services.

The Panel finds that the Complainant has established *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name. In the absence of a Response, the Respondent has not rebutted such *prima facie* case.

The Panel, thus, finds for the Complainant satisfied the requirements under the second element of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that the Respondent has probably registered the disputed domain name with the purpose of taking unfair advantage of the Complainant's mark.

The disputed domain name reproduces the Complainant's mark SOLVAY in its entirety (being the Second-Level of the disputed domain name identical to the Complainant's mark, with the addition of the term "chemie").

The composition of the disputed domain name points towards the Respondent's likely intent to give an impression that the disputed domain name is associated with the Complainant, since "chemie" is German for "chemistry", which is directly to the field in which the Complainant has played such a prominent role.

In the absence of any reasonable explanation for the selection of the disputed domain name by the Respondent, and in the circumstances of this case, the Panel finds that it is more likely than not that the disputed domain name has been registered to take advantage due to its value as a trademark owned by the Complainant.

The disputed domain name resolved to a parked page stating "Your website is ready to go! Hosting account was successfully created on the server. Nameservers have been set up properly. DNS propagation is completed". The Respondent could send out emails passing off the Complainant. This does not constitute a fair or good faith use of the disputed domain name. In addition, the current passive holding of the disputed domain name is also evidence of bad faith from the Respondent. Previous UDRP panels have found that the apparent lack of so-called active use of the domain name without any active attempt to sell or to contact the trademark holder does not prevent a finding of bad faith. See, e.g., *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#); see also *Redcats S.A. and La Redoute S.A. v. Tumay Asena*, WIPO Case No. [D2001-0859](#); and *DCI S.A. v. Link Commercial Corporation*, WIPO Case No. [D2000-1232](#).

Here, the Panel notes the distinctive and well known nature of the Complainant's trademark SOLVAY, the failure of the Respondent to submit a Response, and the implausibility of any good faith use to which the disputed domain name may be put support a finding of bad faith.

The Panel finds that the Respondent registered and is using the disputed domain name with the intention of improperly obtaining benefits and harming the Complainant's reputation in the market.

In the totality of the circumstances, the Panel finds the Respondent has registered and is using the disputed domain name in bad faith.

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 <solvychemie.com> be transferred to the Complainant.

/Alvaro Loureiro Oliveira/

Alvaro Loureiro Oliveira

Sole Panelist

Date: April 24, 2022