

## **ADMINISTRATIVE PANEL DECISION**

### **SOLVAY Société Anonyme v. Mon lidy**

### **Case No. D2022-2585**

#### **1. The Parties**

The Complainant is SOLVAY Société Anonyme, Belgium, represented by PETILLION, Belgium.

The Respondent is Mon lidy, Singapore.

#### **2. The Domain Name and Registrar**

The disputed domain name <solwaynewyork.com> is registered with Key-Systems GmbH (the “Registrar”).

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 15, 2022. On July 15, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 25, 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 date of email communication 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 July 25, 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 July 26, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 15, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 16, 2022.

The Center appointed Federica Togo as the sole panelist in this matter on August 22, 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 a global science company specialised in high-performance polymers and composites technologies, and a leader in chemicals.

The Complainant is the registered owner of trademarks in several jurisdictions for the term SOLVAY, e.g., International trademark registration No. 1171614 SOLVAY (word), registered on February 28, 2013, for goods and services 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, also covering, amongst others, Singapore where the Respondent is reportedly located; European trademark registration No. 000067801 SOLVAY (word), registered on May 30, 2000, for goods and services in classes 1, 3, 4, 5, 7, 9, 10, 12, 17, 19, 20, and 31. Both trademarks are active, with the latter recently being renewed.

The disputed domain name was registered on July 26, 2021, and resolves to an inactive webpage.

#### 5. Parties' Contentions

##### A. Complainant

It results from the Complainant's undisputed allegations that it is a global science company specialised in high-performance polymers and composites technologies, and a leader in chemicals. The Complainant's group was founded 1863, has its registered offices in Brussels and employs more than 21,000 people in 63 countries.

The Complainant contends that its trademark SOLVAY is distinctive and well known all over the world due to the Complainant's international presence and to its marketing investments.

The Complainant further contends that the disputed domain name is confusingly similar to the Complainant's earlier trademark, since it incorporates the Complainant's SOLVAY mark in its entirety and the addition of the geographic term "new york" does not prevent a finding of confusing similarity, because the mark is clearly recognizable within the disputed domain name.

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name. According to the Complainant, there is no connection between the disputed domain name and the Respondent, it is therefore inconceivable that the Respondent is commonly known by the disputed domain name. In addition, in the absence of any license or permission from the Complainant to use its widely-known trademark, no actual or contemplated *bona fide* or legitimate use of the disputed domain name could reasonably be claimed. Furthermore, the disputed domain name impersonates or at least suggests sponsorship or endorsement by the Complainant and cannot constitute *bona fide* or even fair use. In fact, it incorporates the well-known SOLVAY trademark and company name of the Complainant in its entirety and simply adds the geographic term "new york": Internet users may believe that the disputed domain name refers to an entity, office or production site of the Complainant located in New York.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. The Complainant submits that at the time the Respondent registered the disputed domain name, he must have known the Complainant and its trademarks since they are well known. In addition, the effect of the registration is to affect the business of the Complainant by attracting visitors looking for information about the Complainant or its marks and creating difficulties for persons searching the Internet. Furthermore, according to the Complainant, even if the disputed domain name currently does not resolve to an active website, it is impossible to imagine any plausible legitimate use of the disputed domain name by the Respondent, especially in view of the global reach of the Complainant and the well-known and distinctive character of its trademarks. Moreover, it cannot be excluded that the Respondent uses or will use the disputed domain name for fraudulent activity, in view of the Complainant's size and wide range of activities.

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 15(a) of the Rules instructs this Panel to “decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”. Paragraph 4(a) of the Policy requires a complainant to prove each of the following three elements in order to obtain an order that the disputed domain name be transferred or cancelled:

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

The Panel will therefore proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied.

### **A. Identical or Confusingly Similar**

Pursuant to paragraph 4(a)(i) of the Policy, the Complainant must establish rights in a trademark or service mark and secondly establish that the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights.

It results from the evidence provided that the Complainant is the registered owner of several trademark registrations for the term SOLVAY. Reference is made in particular to the trademark registrations listed in section 4 above.

Prior UDRP panels have found that a disputed domain name is confusingly similar to a complainant's trademark where the disputed domain name incorporates the complainant's trademark in its entirety (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) at section 1.7).

This Panel shares this view and notes that the Complainant's registered trademark SOLVAY is fully included in the disputed domain name, followed by the geographic term “new york”. Furthermore, it is the view of this Panel that the addition of the term “new york” in the disputed domain name cannot prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark, since the Complainant's trademark is clearly recognizable in the disputed domain name (see [WIPO Overview 3.0](#) at section 1.8).

Finally, the generic Top-Level Domain (“gTLD”) “.com” of the disputed domain name may be disregarded under the first element confusing similarity test (see [WIPO Overview 3.0](#) at section 1.11.1).

In the light of the above, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

### **B. Rights or Legitimate Interests**

Pursuant to paragraph 4(a)(ii) of the Policy, the Complainant must secondly establish that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Paragraph 4(c) of the Policy contains a non-exhaustive list of circumstances which, if found by the Panel to be proved, shall demonstrate the Respondent's rights or legitimate interests to the disputed domain name. In the Panel's view, based on the undisputed allegations stated above, the Complainant has made a *prima facie* case that none of these circumstances are found in the case at hand and, therefore, that the Respondent lacks rights or legitimate interests in the disputed domain name.

According to the Complaint, which has remained unchallenged, the Complainant has no relationship in any way with the Respondent and did not authorize the Respondent's use of the trademark SOLVAY, *e.g.*, by registering the disputed domain name comprising the said trademark entirely.

Furthermore, the Panel notes that there is no evidence showing that the Respondent might be commonly known by the disputed domain name in the sense of paragraph 4(c)(ii) of the Policy.

Moreover, the Panel notes that the disputed domain name contains the Complainant's registered and well-known trademark SOLVAY and that the trademark SOLVAY is not a trademark that one would legitimately adopt as a domain name unless to suggest an affiliation with the Complainant. The Panel finds it most likely that the Respondent selected the disputed domain name with the intention to take advantage of the Complainant's reputation by registering a domain name fully containing the Complainant's trademark and trade name with the intent to attract Internet users for commercial gain (*e.g.*, *OSRAM GmbH v. Private Registration, OK HOSTING SC*, WIPO Case No. [D2021-0600](#)).

Furthermore, the nature of the disputed domain name carries a risk of implied affiliation, since the disputed domain name contains the Complainant's trademark SOLVAY followed by the geographic term "new york" and geographic terms are seen as tending to suggest sponsorship or endorsement by the trademark owner (see [WIPO Overview 3.0](#), section 2.5.1). Particularly, the Complainant maintains 45 production sites within the United States and thus the composition of the disputed domain name may create an inference that any website connected thereto would belong to an entity, office or production site of the Complainant located in New York.

It is acknowledged that once the Panel finds a *prima facie* case is made by a complainant, the burden of production under the second element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name (see [WIPO Overview 3.0](#) at section 2.1). Since the Complainant has put forward a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name and the Respondent in the case at hand failed to come forward with any allegations or evidence, this Panel finds, in the circumstances of this case, that the Respondent has no rights or legitimate interests in the disputed domain name.

The Panel finds that the Complainant has therefore satisfied paragraph 4(a)(ii) of the Policy.

### **C. Registered and Used in Bad Faith**

According to paragraph 4(a)(iii) of the Policy, the Complainant must thirdly establish that the disputed domain name has been registered and is being used in bad faith. The Policy indicates that certain circumstances specified in paragraph 4(b) of the Policy may, "in particular but without limitation", be evidence of the disputed domain name's registration and use in bad faith.

Based on the evidence submitted by the Complainant, the Panel shares the view of other UDRP panels and finds that the Complainant's trademark SOLVAY is widely known (*e.g.*, *Solvay S.A. v. WhoisGuard Protected, WhoisGuard, Inc. / Jie Zhang, Jie Inc CEO*, WIPO Case No. [D2020-0059](#)). Therefore, given that the Complainant's trademark rights predate the registration of the disputed domain name, this Panel has no doubt that the Respondent positively knew or should have known that the disputed domain name consisted of the Complainant's trademark when he registered the disputed domain name. Registration of the disputed domain name in awareness of the reputed SOLVAY mark and in the absence of rights or legitimate interests in this case amounts to registration in bad faith (see *e.g.*, *Bayer AG v. Privacy service provided by Withheld for Privacy ehf / farm construction, BAYERCROP POLAND*, WIPO Case No. [D2022-1043](#); *Carrefour SA v.*

*Matias Barro Mares*, WIPO Case No. [D2020-3088](#)).

The disputed domain name does not resolve to an active website nor has any evidence been submitted of any prior active use of the disputed domain name. In this regard, the Panel notes that the passive holding does not preclude a finding of bad faith (see *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)). In fact, the totality of circumstances support the Panel's finding regarding the Respondent's passive holding: (1) the Complainant's trademark SOLVAY is widely known; (2) the Respondent failed to submit a formal response or to provide any evidence of actual or contemplated good-faith use; (3) the Respondent seems to have provided false or incomplete information for purposes of registering the disputed domain name, since the mail courier was unable to deliver the Center's written communication to the details disclosed by the Registrar; and (4) the implausibility of any good faith use to which the disputed domain name may be put (see [WIPO Overview 3.0](#) at section 3.3).

In the light of the above, the Panel finds that the Complainant has satisfied paragraph 4(a)(iii) 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, <solwaynewyork.com> be transferred to the Complainant.

*/Federica Togo/*

**Federica Togo**

Sole Panelist

Date: September 2, 2022