

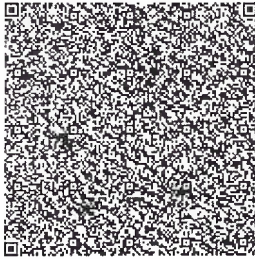
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INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

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Certificate Issued Date	: 08-Aug-2018 10:57 AM
Account Reference	: IMPACC (IV)/ dl921303/ DELHI/ DL-DLH
Unique Doc. Reference	: SUBIN-DL92130328724294462833Q
Purchased by	: SANJAY KUMAR SINGH ARBITRATOR
Description of Document	: Article 12 Award
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: SANJAY KUMAR SINGH ARBITRATOR
Second Party	: Not Applicable
Stamp Duty Paid By	: SANJAY KUMAR SINGH ARBITRATOR
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



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BEFORE SHRI SANJAY KUMAR SINGH, SOLE ARBITRATOR,
NATIONAL INTERNET EXCHANGE OF INDIA
IN DOMAIN NAME DISPUTE RESOLUTION POLICY.
(INDRP).

SOLVAY (SOCIETE ANONYME) --- Complainant
vs
LINA DOUBLEFIST LIMITED --- Respondent.

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BEFORE SHRI SANJAY KUMAR SINGH, SOLE ARBITRATOR,
NATIONAL INTERNET EXCHANGE OF INDIA
IN DOMAIN NAME DISPUTE RESOLUTION POLICY (INDRP)

IN RE:

SOLVAY (SOCIETE ANONYME),
310 RUE DE RANSBEEK B-1120,
BRUSSELS, BELGIUM.

Through its representative

Sonal Madan

C/o Chadha & Chadha,

Himalaya House, 23 KG Marg, New Delhi-110001,

Email: sonal.madan@iprattorneys.com

COMPLAINANT

Versus

Lina, Doublefist Limited

No.2, HengDaMingDu, QingPu

HuaiAn, Ji angsu,

China, 223003

Email: ymgroup@msn.com

RESPONDENT

I. THE PARTIES:

A. THE COMPLAINANT:

SOLVAY (SOCIETE ANONYME), 310 RUE DE RANSBEEK B-1120, BRUSSELS,
BELGIUM.

The Complainant's contact details are:

310 RUE DE RANSBEEK B-1120,

BRUSSELS,

BELGIUM

The Complainant's authorized representative in this administrative proceeding is:

Sonal Madan C/o Chadha & Chadha, Himalaya House, 23 KG Marg, New Delhi-110001, Email: sonal.madan@iprattorneys.com

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B. THE RESPONDENT

The Respondent (amended) in this administrative proceeding is

Lina, Doublefist Limited

No.2, HengDaMingDu, QingPu

HuaiAn, Ji angsu, China, 223003

Email: ymggroup@msn.com

II. THE DISPUTED DOMAIN NAME:

"www.solvay.co.in"

III. THE LANGUAGE OF THE PROCEEDING IS:

The language of the proceeding is English

IV. Factual and legal Grounds:

The complainant's contentions:

- The Complainant has submitted that contested domain name is identical with /confusingly similar to the Complainant's trade mark and corporate name "SOLVAY" (hereinafter referred to as the "said mark/name" which is used in respect of diverse goods and services including, but not limited to, Chemicals used in industry, science, and agriculture, horticulture and forestry, in particular solvents, barium, strontium, calcium chloride, caustic soda, chlorinated products, peroxides, poly glycerine, poly glycerol cellulose acetate, amines, sulphuric acid, surfactants, diphenols and derivatives, fluorinated compounds, acidic acid, intermediate polyamide, phosphorus derivatives, silica, rears earth, mixed oxides and alumina, biological products used in industry and science, unprocessed artificial resins, unprocessed plastics and plastic components, in particular vinyl's, polymers, specialty monomers and polyamide resins, fire extinguishing compositions, manures, tempering and soldering preparations, chemical substances for preserving foodstuffs, chemicals as additives for foodstuffs, tanning agent, chemicals for the treatment of leather (not included in other classes), chemicals for treatment of water, air and soil, adhesives used in industry, luminescent chemicals for industrial use, chemicals for industrial use in the manufacture of phosphors, chemicals for flame

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retardants, polyamide, catalysts, Paints, varnishes, lacquers, coatings, inks (not included in other classes), preservatives against rust and against deterioration of wood, dyestuffs, mordent's, raw natural resins, Bleaching preparations and other substances for laundry use, cleaning, polishing, scouring and abrasive preparations, chemicals for household use, not included in other classes, soaps, perfumery, essential oils, cosmetics, non-medicinal bath salts, hair lotions, toothpaste, preservatives for leather, Industrial oils and greases, lubricants, dust absorbing, witting and binding compositions, Non-chemical fuel additives, illuminates, Pharmaceutical and veterinary preparations, therapeutic products relating to genes and cells, sanitary preparations for medical purposes, dietetic substances for medical use, food supplements for humans and animals, disinfectants, preparations for destroying vermin, fungicides, herbicides, Machines not included in other classes and machine tools, parts of equipment for motors mainly or totally made of synthetic resins, equipment and installations for recycling and treatment of materials and of soils, cogeneration equipment and installations, motors other than for land vehicles, fuel injection devices for vehicle engines, air intake and cooling systems for vehicle engines (engine parts), Scientific apparatus and instruments, optical, measuring, checking (supervision) apparatus and instruments, apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity, apparatus for recording, transmission or reproduction of sound or images, magnetic data carriers, sound recording discs, apparatus and instruments for monitoring and automated regulation for tanks, tubing, valves, boxes, canisters, filters and pump modules as well as for filling, storage and supply of fuel, gas and other fluids, calculating machines, data processing equipment, computers, software, fire extinguishers, clothing for protection against fire, heat, chemical reactions and /or radiation, protection devices for personal use against accidents, spectacles (optics), eyewear, diagnostic apparatus not for medical purposes, memory cards or microprocessor, Surgical, medical dental and veterinary apparatus, equipment and instruments, Surgical implants [artificial materials], orthopaedic articles,

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Vehicles, motorcycles, cycles, apparatus for locomotion by land, air or water, motors for land vehicles, structural components for vehicles, not included in other classes, plastic parts for vehicles, not included in other classes, in particular all technical parts, fuel tanks and filling systems for vehicles, car bodies, bumpers, protective coatings, spoilers, dashboard, glove box, storage consoles, interior overhead systems and side panels, panels and door handles, shock absorbers, chassis or bumpers, kickstands, brakes, handlebars, rims, pedals, tires, wheels, Rubber, gum and goods made from these materials, not included in other classes, plastics in extruded form for use in manufacture, plastic compounds and semi-finished plastics also in the form of fluids, foam, films, foils, membranes, panels or tubes, yarns, threads and fibres, not for textile use, packing, stopping and insulating materials, flexible pipes, not of metal, insulating resins, insulating fluids, electrical insulating fluids, semi-worked cellulose acetate, in particular for use in cigarette filters, Connecting hose for vehicle radiators, filtering materials (semi-processed plastics or foams), Non-metallic building materials, rigid plastic panels and panel assemblies for construction, window frames and doors made of plastic, non-metallic rigid piper for building, products for road construction, non-metallic transportable buildings, Ropes, cordage, string, nets, tents, awnings, tarpaulins, sails sacks and bags (not included in other classes), padding and stuffing materials (except of rubber or plastics), raw fibrous textile materials, synthetic and / or artificial fibers (for textile use), cables, not of metal , packing (stuffing or cushioning) materials, not of rubber or plastic, textile fibers, bags or small bags (envelopes, pouches) of textile, for packaging, glass fibers for textile use, Yarns and threads, for textile use, elastic yarns and threads, for textile use, yarns and threads in glass fiber, for textile use, spun wool, spun silk, Textiles and textile goods, not included in other classes, Bed linen, table linen [not of paper] , household linen, net curtains, curtains and wall hangings of textile, upholstery fabrics, filtering materials of textile, Clothing, footwear, headgear, Lingerie, underwear, stockings, tights, Flour, pastry and confectionery, I edible ices, yeast, baking powder, salt, condiments, spices, aromatic

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preparations for food, vanillin, Animal foodstuffs, Filters for smoker's articles, cigarette filters, Business management and organization consultancy, including assistance for the exploitation and development of industrial and commercial companies, administrative audit of business organization, commercial business expertise, including commercial expertise in certification, also for companies active in the domain of recycling, distribution of energy and fluids, greenhouse gas emission credits and energy savings, business inquiries, compilation of statics, administrative services for the compilation, collection, analysis and documentation of statistics, reporting and compilation of business reports and business plans, analysis, research and market studies, also in order to assess the need for energy, fluids and greenhouse gas emission credits, as well as in energy saving, price, analysis, Financial and real estate management, financial services rendered in the field of greenhouse gas emission credits, investments management services and financial advisory services in the field of greenhouse gas emission credits, support and advisory services on capital investment, services of intermediaries in financial investments, especially capital investments, financing and insurances in relation to the field of greenhouse gas emission credits, financial analysis of markets and stock exchange quotations of values in the field of energy markets, financial transactions on the trading of all energy and environmental commodities, information on finances and capital investments in the field of energy and environmental commodities, Construction, installation and maintenance service industrial equipment, construction, installation, maintenance and repair services of installations for the recycling and treatment of materials, construction installation, maintenance and repair services of installations for the treatment of water, soils, gas and air, construction, installation, maintenance and repair services of cogeneration installations, construction, installation, maintenance and repair services of installations for the production and distribution of electrical, thermal, heating and cooling energy, maintenance services of thermal equipment and installations, maintenance services of equipment and installations for heating,

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ventilation and air conditioning, maintenance services of equipment, including technical surveys of facilities, measurements and transcriptions, all the aforementioned services also based on diagnostics or within the framework of visual or functional support of installations, installation, repair and maintenance services of technical equipment in the field of electrical, thermal, heating and cooling energy, including in the framework of management of these equipments, Transport, packaging and storage of goods, distribution of water, distribution of water, distribution of energy , including electricity, gas oil, heat, cold, air, Recycling and processing of materials, treatment of water, soil, gas and air, surface treatment, treatment of waste, all the aforementioned services also related environmental pollution control, energy processing, energy production, consultancy related to the afore mentioned services, Scientific and technological services and research and design relating thereto, industrial analysis and research services, technical project studies, surveying (engineering) , material testing, design and development of computer hardware and software, surveying (engineering) in the field of heating, ventilation and air conditioning, technical research and measurement services designed to establish technical surveys and transcriptions of installations (hereinafter referred to as the "said goods and services").

- The complainant has further submitted that "SOLVAY" is the principal trade mark of the Complainant and also forms the dominant part of the corporate name of the Complainant.
- The complainant has further submitted that contested domain name is identical with/confusingly similar to the domain name www.solvay.com of the Complainant which was registered in 1995. The complainant has filed an extract from the WHOIS records with details of the Complainant's domain name registration as ANNEXURE B and has relied on the same.
- The complainant has further submitted that the Respondent has no claim, right or legitimate interest in respect of the domain name and the contested domain is registered without any authorization from the Complainant.

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- The complainant has further submitted that the contested domain www.solvay.co.in has been registered in bad faith, thereby wrongfully and illegally trading upon the reputation of the Complainant.
- The complainant has further submitted that it bonafidely adopted the said mark/name around the year **1863** and holds numerous trade mark registrations for the mark "SOLVAY". The Complainant has used the said mark in several classes in numerous jurisdictions around the world including, but not limited to, India, Algeria, Argentina, USA, Germany, Australia, Austria, Belarus, Belgium, Brazil, Bulgaria, Canada, Chile, China, Croatia, Denmark, Slovenia, Estonia, Latvia, Lithuania, Finland, France, Greece, Holland, Hungary, Ireland, Mexico, Poland, Portugal, United Kingdom, Czech Republic, Romania, Taiwan, Turkey, Sweden, Ukraine, Indonesia, Italy, Japan, Kazakhstan, Malaysia, Namibia, New Zealand, Norway, Philippines, Russian Federation, Singapore, Slovakia, South Africa, South Korea, Spain, Sweden, Switzerland, Taiwan, Thailand, Tunisia, Uzbekistan and Vietnam. Due to its extensive use and promotion in various countries, the said mark/name has acquired a formidable reputation worldwide.
- The complainant has submitted that it has registered/applied for registration for the following marks in India:

Trade Mark	Applicati on Number	Applicatio n Date	status	Classes	Publication details
SOLVAY	13632	22/3/1943	Registered	3	91-0 dated 01/03/1951
SOLVAY	13631	22/3/1943	Registered	1	31-0 dated 01/03/1946
SOLVAY	306217	11/6/1975	Registered	1	722-0 dated 01/07/1979
SOLVAY	306218	11/6/1975	Registered	3	799-0 dated 16/09/1982
SOLVAY	306219	11/6/1975	Registered	16	745-0 dated 01/07/1980

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SOLVAY	306220	11/6/1975	Registered	17	885-0 dated 16/04/1956
SOLVAY	306221	11/6/1975	Registered	19	dated 11/06/1975
SOLVAY	920800	26/4/2000	Registered	1	9999-1 dated 25/08/2003
SOLVAY	920789	26/4/2000	Registered	3	1328-0 dated 07/02/2005
SOLVAY	920778	26/04/2000	Pending	5	1328-0 dated 07/02/2005
SOLVAY	920791	26/04/2000	Registered	10	1333-1 dated 15/08/2005
SOLVAY	920792	26/04/2000	Registered	12	9999-3 dated 14/10/2003
SOLVAY	920793	26/04/2000	Registered	16	1328-1 dated 07/02/2005
SOLVAY	920794	26/04/2000	Registered	17	1328-5 dated 30/03/2005
SOLVAY	920795	26/04/2000	Registered	18	9999-5 dated 14/11/2003
SOLVAY	920796	26/04/2000	Published	19	1331-1 dated 15/6/2005
SOLVAY	920799	26/04/2000	Registered	30	1331-1 dated 15/06/2005
SOLVAY	920787	26/04/2000	Registered	31	9999-3 dated 14/10/2003
SOLVAY	920765	26/04/2000	Registered	5	1328-1 dated 07/02/2005
SOLVAY	920769	26/04/2000	Registered	17	1340-1 dated 15/03/2006
SOLVAY	920768	26/04/2000	Registered	16	1328-0 dated 07/02/2005
SOLVAY	920767	26/04/2000	Registered	12	1328-5 dated 30/03/2005
SOLVAY	920766	26/04/2000	Registered	10	9999-3 dated

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					14/10/2003
SOLVAY	920762	26/04/2000	Registered	31	1328-2 dated 14/02/2005
SOLVAY	920774	26/04/2000	Registered	30	9999-5 dated 14/11/2003
SOLVAY	920771	26/04/2000	Registered	19	1340-1 dated 15/03/2006
SOLVAY	920770	26/04/2000	Registered	3	1328-0 dated 07/02/2005
SOLVAY	1236663	15/09/2003	Registered	40, 42	1328-5 dated 30/03/2005
SOLVAY	1236661	15/09/2003	Registered	40, 42	1375-0 dated 01/09/2007
SOLVAY	2029737	28/09/2010	Registered	2,4,35,37,38	1730-0 dated 01/02/2016
SOLVAY	2447790	01/11/2010	Pending	2,4,7,9,35,37,38	-
SOLVAY	2496064	14/03/2013	Registered	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	1756-0 dated 01/08/2016

- The complainant has further submitted that it has generated valuable goodwill and reputation in the trade mark and the name SOLVAY and the Respondent has copied the mark/name of the Complainant with the intention of taking unfair advantage of the goodwill of the Complainant.

VI. FACTUAL AND LEGAL GROUNDS [Policy, Para 4, Rules, Para 3(b) (v) & (vi)]

- The complainant has submitted that it is a large multinational company and has grown to become a global chemical and plastics group active in two main sectors, i.e. chemicals and plastics. The Complainant is present in more than 61 countries with 124 sites and employs over 24,500 people. The Complainant's products are sold in over 150 countries worldwide. The

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hey generated proforma net sales of 10.1 billion in 2017, with 90% made from activities where they rank among the world's top 3 players.

2. The complainant has further submitted that it owns the distinctive mark "SOLVAY" and its variants in India under the registration numbers and details given in paragraph V above in respect of the said goods and services. The first registration for the mark in India was granted in 1946 and is still valid and subsisting.
3. The complainant has further submitted that it is also the owner of the domain name www.solvay.com and has secured registration of the same on March 21, 1995 and the registration is still valid and subsisting. This website is accessible to people across the globe, including in India. Thus, the said website serves as a platform for consumers to receive detailed information about the Complainant and its goods sold and services rendered and as a result, the said marks/name enjoys tremendous reputation in India. The complainant has further submitted that Overall, it owns the following domain names :

Solvay.com
Solvay.at
Solvay.bg
Solvay.be
solvay.cz
Solvay.dk
solvay.fr
solvay.de
solvay.gr
solvay.hu
solvay.it
Solvaypoland.pl
solvay.pt
solvay.ro
solvay.ru
solvay.co.za

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solvay.es
solvay.eh
solvay.com.tr
solvay.ua
solvay.co.uk
solvay.com.au
solvay.id
solvay.jp
Solvayindia.in
solvay.cn
solvay.kr
solvay.sg
solvay.biz.vn
solvay.co.th
solvay.tw
Solvaygroup.com.ar
solvay.cl
solvay.co
solvay.com.ve
solvay.uy
solvay.pe
solvay.mx
solvay.gt
solvay.ec
solvay.ca

4. The Complainant has further submitted that it has a strong presence in India. The Complainant deploys their activities in the domain of advanced polymers in India through the Company SOLVAY SPECIALITIES INDIA PVT. LTD. (incorporated on June 20, 2005). In 2015 and 2016 the Solvay Group invested 230 million and 237 million Euros in India respectively (invested capital, capital expenditures and investments). The Complainant has annexed the documents evidencing the Complainant's strong Indian

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presence and trade mark registrations as ANNEXURE C and relied on the same.

5. The complainant has submitted that it bonafidely adopted the said mark/name around the year 1863 and has used the same since then in several jurisdictions around the world. The Complainant was thus the first to conceive, adopt, use and promote the mark/name "SOLVAY" and the domain name www.solvay.com . On account of long and extensive usage of the mark/name/domain name by the Complainant, the same are identified solely and exclusively with the Complainant and none other. The Complainant has annexed documents evidencing use of the mark/name "SOLVAY" by the Complainant over the years and around the world as ANNEXURE D and relied on the same.
6. The complainant has submitted that the popularity and worldwide recognition of the Complainant and its well-known "SOLVAY" mark and name may be gauged from the fact that an exclusive page has been dedicated by Wikipedia mentioning their history and business operations. The Complainant has annexed a copy of the Wikipedia Page as ANNEXURE E and relied on the same. It is widely known that Wikipedia is an encyclopaedia viewed by the masses.
The complainant has submitted that it has invested substantial time, money and effort to advertise/promote the mark/name "SOLVAY". The Complainant has annexed documents evidencing advertisements / promotions of the mark/name "SOLVAY" by the Complainant over the years as ANNEXURE F and relied on the same.
7. The complainant has submitted that it has a strong presence over **social media websites like Facebook, Linkedin, Twitter, Youtube, Instagram, etc**, wherein the Complainant's said "SOLVAY" mark and name have been showcased extensively. It is pertinent to note that the Complainant's Facebook page has over **54,000 likes**, **Twitter account** has over **13,500 followers**, and their **Linkedin account** has over **1,52,123 followers**. The complainant has further submitted that it has a strong social media presence, which indicates their ever-growing popularity. The Complainant has annexed documents evidencing the Complainant's use of

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the mark and name "SOLVAY" and its popularity on social media as ANNEXURE G and relied on the same.

8. The complainant has submitted that the Annual Reports of the Complainant describe their business activities and huge presence all over the world. The Annual Sales figures of goods and services provided by the Complainant across the globe for last few years are as under:

YEAR	SALES FIGURES (in EUR)
2003-2004	10.0 billion
2004-2005	10.4 billion
2005-2006	11.4 billion
2006-2007	12.4 billion
2007-2008	12.7 billion
2008-2009	12.6 billion
2009-2010	11.2 billion
2010-2011	17.2 billion
2011-2012	16.8 billion
2012-2013	13.5 billion
2013-2014	10.2 billion
2014-2015	12.4 billion
2015-2016	10.9 billion

9. The complainant has further submitted that the Annual Sales figures of goods and services provided by the complainant in India for last few years are as under:

YEAR	SALES FIGURES (in EUR)	
2003-2004	20.9 million	
2004-2005	42.3 million	
2005-2006	39.4 million	
2006-2007	51.8 million	
2007-2008	58.4 million	
2008-2009	48.0 million	

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2009-2010	47.8 million	
2010-2011	120.4 million	
2011-2012	250.9 million	
2012-2013	257.9 million	
2013-2014	214.6 million	
2014-2015	171 million	
2015-2016	185 million	

10. The complainant has submitted that the reputation and goodwill of the Complainant which is primarily associated with its mark and "SOLVAY" is well earned and a result of continuous efforts and monetary investment by the Complainant.
11. The complainant has submitted that the use of the word "SOLVAY" on any leading search engine automatically reflects the webpage of the Complainant among the leading hits. The complainant has annexed the relevant extracts from the search result page of the search engine Google for the key word "SOLVAY" as **ANNEXURE H**.
12. The complainant has submitted that it owns the legal rights in the trade mark, domain name and corporate name comprising "SOLVAY" and has secured trade mark registration and domain name registration with regards to the same. Therefore, the complainant is the rightful owner and user of domain names and trademarks comprising the "SOLVAY" mark/name.
13. The complainant has submitted that it has registered a nearly identical/confusingly similar domain name www.solvay.co.in with the .IN Registry. It is submitted that, the aforesaid domain name incorporates the Complainant's popular, prior used mark/name "SOLVAY" and is nearly identical to the prior registered domain of the Complainant i.e. www.solvay.com. Further, the Complainant has not licensed or otherwise authorized or given consent to the Respondent to use/utilize or commercially exploit the Complainant's registered trade mark in any manner.
14. The complainant has submitted that on account of its extensive use and popularity of the domain name/mark "SOLVAY", its use has been popularized and therefore the Respondent can have no plausible explanation

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for adoption of a domain name comprising the Complainant's highly distinctive trade mark "SOLVAY". The Respondent's intention is clearly to take advantage of the goodwill and reputation enjoyed by the complainant's trade name/mark "SOLVAY", and the domain name www.solvay.com. The said "SOLVAY" mark and name belonging to the Complainant are well-known marks within the meaning of S. 2(1) (zg) of the Trade Marks Act, 1999 and are entitled to the highest level of protection.

15. The complainant has further submitted that it is pertinent to note that the Respondent's website on the impugned domain name states that "solvay.co.in may be available for sale". Thus, the Respondent's intention is clearly to derive illegal profits and to attract internet traffic and benefit from the sale of a famous domain name. The complainant has annexed a copy of extracts from the Respondent's website as **ANNEXURE I**.
16. The complainant has submitted that it will suffer incalculable harm and injury to its goodwill, reputation and business in general if the Respondent is allowed to maintain its domain name www.solvay.co.in. the complainant has further submitted that the loss and damage will not only be to the Complainant's reputation but will also result in confusion and deception among the trade and public who shall have no reason to consider that a nearly identical domain name with the extension co.in does not belong to the Complainant. The members of trade and public may also assume that there exists a connection between the Complainant and the Respondent which is likely to further harm the reputation enjoyed by the Complainant.
17. The complainant has submitted that it is a settled proposition of law that were there is copying, dishonesty ought to be presumed. In the present case, copying by the Respondent is evident from its adoption of a nearly identical/confusingly similar domain name. Furthermore, the Respondent's intention is clearly to take a free ride on the goodwill and the unique sales appeal that the Complainant's goods and services under the name/mark "SOLVAY" and domain www.solvay.com have achieved over 15 decades.
18. The complainant has submitted that Respondent has no rights or legitimate interests in respect of the domain name www.solvay.co.in and the reason behind adoption of a nearly identical/confusingly similar domain name is

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only to reap undue benefits from such unauthorized use, which is evident from the fact that the Respondent has blatantly copied the domain name of the Complainant and that the Respondent does not have any active website or business in the mark/name/on the website, the website is merely available for sale and has only a few "sponsored listings".

19. The complainant has submitted that all three essential conditions in Paragraph 4 of the Policy are satisfied by the Complainant and the Complainant is therefore entitled to transfer of the domain name in its favour.

A. The domain name **www.solvay.co.in** is identical or confusingly similar to a name, trade mark or service mark in which the Complainant has rights.

- i. The Complainant is the lawful proprietor of the mark "SOLVAY". The said mark/name is a symbol of dependability and reliability of the goods and services in relation to which it is used and enjoys huge reputation among consumers. The Respondent has applied for a domain name that is nearly identical/confusingly similar with Complainant's name/mark "SOLVAY". The Respondent is making calculated attempts to deceive the public which will lead to dilution of the reputation associated with the Complainant and its trade mark/name SOLVAY. The contested domain name is identical with/deceptively similar to the mark/name/domain name of the Complainant and the same is bound to cause the public to believe that the Respondent and its website are affiliated with the Complainant.
 - ii. The Complainant has also filed sufficient evidence to show prior adoption and that it has trade mark rights in the mark "SOLVAY".
- Thus, the first quintessential condition is clearly satisfied.

B. The Respondent has no rights or legitimate interest in the domain name **www.slovay.co.in**.

- i. The contested domain name www.solvay.co.in was registered by the Respondent on July 05, 2015, while the Complainant adopted the mark/name "SOLVAY" in the year 1863. Therefore, it is evident that

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the Complainant had already been in the industry for over 140 years at the time of registration of the contested domain name by the Respondent. Therefore, it is obvious that the Respondent was aware of the Complainant's trade mark rights in the "SOLVAY" mark/name and their adoption of a nearly identical/confusingly similar domain www.solvay.co.in is in bad faith.

- ii. The Complainant's trade mark "SOLVAY" had been registered and widely known long before registration of the domain name by the Respondent. Further, the fact that the respondent is offering the domain name for sale clearly indicates that it has no legitimate interest in the contested domain name.
- iii. The registration of the domain in question is clearly an attempt to misappropriate the goodwill and reputation accrued by the Complainant under its trade mark and domain name and the Respondent has no legitimate rights in the same. The Respondent has no legitimate interest in the contested domain name and has registered the same only to derive undue benefit by attracting internet traffic to their domain name and eventually making undue gains by selling the domain name. This is therefore, a clear case of cyber squatting.

C. The Complainant submits that the domain name was registered and is being used by the Respondent in bad faith due to following :

- i. The complainant has submitted that it is the prior adopter and user of the mark/name "SOLVAY" and prior owner of the domain name www.solvay.com which is registered in the name of the Complaint since the year 1995. In addition, registration of the domain name www.solvay.com was also a constructive notice to the Respondent of the Complainant's rights in the "SOLVAY" mark and domain name. Thus, the adoption of a nearly identical/confusingly similar mark/domain name by the Respondent is in bad faith.
- ii. The complainant has submitted that the mark "SOLVAY" is the main component of the Complainant's mark/ corporate name and domain name and is distinctive in nature. The complainant has further

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submitted that there cannot be any plausible explanation for adoption of an identical domain name and mark by the Respondent. The Complainant submits that the adoption and use of a nearly identical/confusingly similar domain name by the Respondent cannot be a co-incidence and is thus in 'bad faith'.

- iii. The complainant has submitted that the Respondent is not conducting any legitimate business activities through the domain name www.solvay.co.in and thus the sole purpose of registering a nearly identical/confusingly similar domain name by the Registrant is to divert internet traffic by using an established name and mark.

RESPONDENT

The Respondent has neither filed his response nor any document in his defence despite repeated notices. Hence he is proceeded exparte and the complainant is being decided on the merit of the complaint and as per law of the land.

AWARD

1. This arbitral proceeding commenced in accordance with IN Dispute Resolution Policy (INDRP) and rules framed there under.
2. The complainant submitted his complaint in the registry of NIXI against the respondent in respect to the respondent's Domain name "www.solvay.co.in"
3. I was appointed as Sole Arbitrator in the matter by NIXI.
4. The complainant submitted the said complaint under In Domain Name Dispute Resolution Policy (INDRP).
5. A copy of complaint was sent to me by the NIXI for arbitration in accordance with Dispute Resolution Policy (INDRP). The copy of the complaint along with annexures/exhibits was forwarded to me and to the respondent by .In Registry of NIXI.
6. The complainant has prayed for an award in the above matter for transfer of the domain name "www.solvay.co.in" in favour of the complainant.

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8. On 11-07-2018 I issued notice to the respondent and informed the respective parties to the complaint, about my appointment as an arbitrator. Accordingly, I called up on the parties to file their counter/ reply and rejoinder with the supportive document/evidence within TEN days of receipt of notice.
9. On 19-07-2018 NIXI was directed to serve the copies of the complaint and the annexures to the Respondent.
10. The Respondent was not responding to the calls of the courier agency and was deliberately avoiding service the copies of the complaint and the annexures as such the service of the hard copies of the copies of the complaint and the annexures was dispensed with. NIXI was requested to send the soft copy of the complaint and annexures to the respondent at his email address though the copies of the complaint and the annexures were sent to the respondent on 06-07-2018.
11. On 25-07-2018 NIXI complied with the directions and sent the soft copy of the complaint and annexures to the respondent at his email address.
12. On 26-07-2018 I again issued notice to the respondent and further directed the respective parties to the complaint, to file his counter/ reply with the supportive document/evidence within Ten days of receipt of notice. It was made clear to the Respondent that if the respondent failed to submit the reply / response and documents in his support then the complaint would be decided exparte on the merit of the complaint and as per law of the land. However the Respondent did not comply the directions and did not file any response / reply.
10. On 06-08-2018 I again issued notice to the respondent and further directed the respective parties to the complaint, to file his counter/ reply and rejoinder with the supportive document/evidence within FIVE days of receipt of notice. It was made clear to the respondent that in case respondent failed to file the reply then no further opportunity shall be granted to him. However the respondent again failed to comply and did not file / submit any counter / reply with the supportive document or evidence.

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11. I have perused the records and have gone through the contents of the complaint and Annexures. Since respondent has not filed any reply and document hence the complaint is being decided ex-parte on the merits of the complaint and as per law of the land.
14. The complainant has made positive assertions that respondent has no legitimate right in domain name and the respondent has no trademark on the domain name. The complainant has made positive assertions regarding the fact that respondent has got registered the disputed domain name in the .IN Registry for which the respondent has no right or trademark. As such in above circumstance it is clear that the complainant has prima facie discharged the initial onus cast upon him. The respondent has not come forward in spite of repeated notices to file any reply / counter or to provide any positive, cogent and specific evidence that it is known or recognized by domain name. The respondent has neither put forth and has nor provided such evidence. Thus the conclusion is that respondent has no right or legitimate interest in the domain name.
26. the apex court has held in Indian decision M/s Satyam Infoway Ltd. Vs. M/s Sifynet Solution (P) Ltd. JT. 2004 (5) SC 541, that Domain name has all characteristics of trademark. As such principles applicable to trademark are applicable to domain names also. In the said case the words, "Sify" & "Siffy" were held to be phonetically similar and addition of work 'net' in one of them would not make them dissimilar. It is held in above case that in modern time's domain name is accessible by all internet users and thus there is need to maintain it as an exclusive symbol. It is also held that it can lead to confusion of source or it may lead a user to a service, which he is not searching. Thus conclusion is that domain name and trademark, which may be used in different manner and different business or field, or sphere, can still be confusingly similar or identical.
27. The Respondent has not submitted his reply / counter or documents or evidence in his defence despite notices issued to him. Thus in view of the contentions of complainant and the law as discussed hereinabove the conclusion is that the domain name "www.solvay.co.in" is identical and

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confusingly similar to the trademark of complainant "SOLVAY" and the complainant has established that he has right in the trademark and further the respondent has got registered his domain name "www.solvay.co.in" in bad faith.


RELIEF:

The domain name of the respondent is identical and confusingly similar to trademark of complainant. The respondent does not have right or legitimate interest in the domain name. He has got it registered in bad faith, as such he is not entitled to retain the domain name. In view of above discussions the complaint is allowed. The complainant is entitled for transfer of domain name "www.solvay.co.in", as it has established its bonafide rights in trademark in facts and circumstances and as per law discussed herein above. Hence, I direct that the Domain name "www.solvay.co.in" be transferred to the complainant by registry.

No order as to costs.

Delhi

Date: 20-08-2018.


(Sanjay Kumar Singh)
Arbitrator