

Decision for dispute CAC-UDRP-104500

Case number	CAC-UDRP-104500
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Time of filing	2022-04-19 09:37:45
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Domain names	saint-goibain.com
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Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)
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Complainant

Organization	COMPAGNIE DE SAINT-GOBAIN
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Complainant representative

Organization	NAMESHIELD S.A.S.
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Respondent

Name	jackson williams
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OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of a variety of registered trademarks in respect of the mark SAINT-GOBAIN including for example:

International Registered Trademark no. 740183 for the word mark SAINT-GOBAIN, granted on July 26, 2000 in Classes 1, 2, 3, 6, 7, 8, 9, 10, 11, 12, 17, 19, 20, 21, 22, 23, 24, 37, 38, 40, and 42, and designated in respect of over 40 territories.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Complainant is a French company specialized in the production, processing and distribution of materials, organized into three sectors, namely Innovative Materials, Construction Products and Building Distribution. The Complainant claims a 350-year history, noting that it is now one of the top 100 industrial groups in the world and one of the 100 most innovative companies.

The Complainant is the owner of the SAINT-GOBAIN registered trademark. The Complainant is also the owner of multiple

domain names bearing this mark, including for example, <saint gobain.com> registered since December 29, 1995.

The Respondent registered the disputed domain name on January 21, 2022. It is inactive in terms of website content but was used to send an e-mail dated April 5, 2022 allegedly seeking quotations for commercial products.

The disputed domain name is confusingly similar to the well-known and distinctive SAINT-GOBAIN trademark and contains an obvious misspelling thereof. This is a clear case of "typosquatting", i.e. the disputed domain name contains an obvious misspelling of the Complainant's trademark. Previous panels have found that slight spelling variations do not prevent a disputed domain name from being confusingly similar to a complainant's trademark. The addition of the gTLD ".com" is insufficient to escape a finding that the disputed domain name is confusingly similar to the Complainant's trademark, and it does not change the overall impression of the designation as being connected to the Complainant's said trademark.

The Respondent does not have any rights or legitimate interests in the disputed domain name. The Respondent is not known as the disputed domain name. The Respondent is not identified in the Whois as the disputed domain name. Past panels have held that a Respondent was not commonly known by a disputed domain name if the Whois information was not similar to the disputed domain name. The Respondent is not related in any way with the Complainant, and the Complainant does not carry out any activity for, nor has any business with the Respondent. No licence or authorization has been granted to the Respondent to make any use of the Complainant's SAINT-GOBAIN trademark, or to apply for registration of the disputed domain name.

The disputed domain name is a typosquatted version of the Complainant's SAINT-GOBAIN trademark. Typosquatting is the practice of registering a domain name in an attempt to take advantage of Internet users' typographical errors and can be evidence that a respondent lacks rights and legitimate interests in a domain name.

The Respondent has registered and is using the disputed domain name in bad faith. The disputed domain name is confusingly similar to the Complainant's well-known trademark which has operated for decades worldwide. Given the distinctiveness of the Complainant's trademarks and reputation, it is reasonable to infer that the Respondent registered the disputed domain name with full knowledge of the Complainant's trademark. The misspelling of the Complainant's SAINT-GOBAIN trademark was intentionally designed to be confusingly similar therewith, and previous panels under the Policy have seen such actions as evidence of bad faith.

The website related to the disputed domain name is currently inactive but the disputed domain name was used for fraudulent phishing scheme. The evidence of such a phishing scheme further supports the claim that the Respondent is not making a bona fide use of the disputed domain name or a legitimate non-commercial or fair use thereof.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown that the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be

inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

The second level of the disputed domain name constitutes a typographical variant of the Complainant's SAINT-GOBAIN trademark. The only difference on an alphanumeric comparison between said second level and the Complainant's mark is the presence of an additional the letter "i" in the disputed domain name. It should not be overlooked that the letters "i" and "o" are adjacent to one another on many standard keyboards, so that it is possible to type the letter "i" inadvertently when typing the "o" of SAINT-GOBAIN. In any event, notwithstanding the presence of this additional letter, the Complainant's mark is still entirely recognizable within the disputed domain name. The disputed domain name contains an obvious misspelling of the Complainant's mark and is thereby confusingly similar thereto. The generic Top-Level Domain, in this case ".com", is typically disregarded for the purposes of the comparison exercise. In these circumstances, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark.

The Panel finds that the Complainant has made out a prima facie case that the Respondent does not have rights or legitimate interests in the disputed domain name. The Complainant asserts that the Respondent is not commonly known by the disputed domain name, that the Respondent is not related in any way with the Complainant, and that the Complainant does not carry out any activity for, nor has any business with the Respondent. The Complainant further asserts that no licence or authorization has been granted to the Respondent to make any use of the Complainant's SAINT-GOBAIN trademark, or to apply for registration of the disputed domain name. Finally, the Complainant submits that the disputed domain name is a typosquatted version of its SAINT-GOBAIN trademark.

The Panel accepts the Complainant's description of typosquatting, namely that this is the practice of registering a domain name in an attempt to take advantage of Internet users' typographical errors. As the Complainant notes, it can be evidence that a respondent lacks rights and legitimate interests in a domain name. In this particular case, the insertion in the disputed domain name of an additional letter "i" in what is otherwise the Complainant's trademark (alphanumerically speaking) renders it beyond doubt in the Panel's mind that the disputed domain name constitutes typosquatting due in particular to the recognizability of the Complainant's trademark and the fact that the letters "i" and "o" are adjacent to one another on many standard keyboards. This suggests that the Respondent seeks to capitalize deliberately on a predictable pattern of mistyping of the Complainant's mark by Internet users.

The Respondent has not filed a Response in this case and has not sought to set out any alleged rights or legitimate interests which it might have in the disputed domain name. There are no submissions or evidence on the record which might serve to rebut the Complainant's prima facie case. Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

The Panel finds that the disputed domain name has been registered and is being used in bad faith. It has been established in previous cases under the Policy that the Complainant's SAINT-GOBAIN trademark has a significant reputation and is of distinctive character (for example, see *Compagnie de Saint-Gobain v. On behalf of saint-gobain-recherche.net owner*, Whois Privacy Service / Grigore PODAC, WIPO Case No. D2020-3549 in which the panel found that the Complainant is a well-established company which has operated under said trademark for decades worldwide). The registration of the Complainant's trademark pre-dates the registration of the disputed domain name by two decades. It should also not be overlooked that the Complainant's registered trademark has been designated in respect of the country in which the Respondent is based according to the Whois record.

In all of these circumstances, it is reasonable for the Panel to infer that the Respondent was aware of the Complainant's rights in said mark when it registered the disputed domain name. The fact that the disputed domain name itself contains a close typographical variant of the Complainant's mark also suggests that it was registered with intent to target the same. Such targeting is evident in the fact that the disputed domain name seeks to capitalize on mistyping of the Complainant's trademark on a standard keyboard, for example, when Internet users are looking for the Complainant's official domain name <saint-gobain.com>, itself registered since 1995. It is also apparent in the fact that, in general terms, the disputed domain name promotes confusion by its close similarity in appearance to the Complainant's mark.

There is no website at the disputed domain name and accordingly it is being “passively held”. Such passive holding does not allow the Respondent to escape a finding of registration and use in bad faith in circumstances where, as here, the disputed domain name is confusingly similar to the Complainant’s mark, which has decades of repute behind it, and where the Respondent has failed to submit a Response or otherwise to provide any evidence of actual or contemplated good faith use, and it is implausible that the disputed domain name could be put to any such good faith use if its website were to become active (see, on this topic, Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003).

Finally, there is evidence before the Panel that the disputed domain name has been used in connection with the sending of e-mail which appears to impersonate the Complainant’s business in the furtherance of a fraudulent scheme such as a “phishing” attack perpetrated upon those who are or wish to become the Complainant’s suppliers for certain commercial products. The Complainant does not provide evidence that the disputed domain name is configured to receive e-mail, for example by way of active MX records in the associated DNS records. However, this is reasonable for the Panel to infer given that a party who sends an e-mail of this nature can reasonably be expected to be seeking replies from confused entities or individuals.

The Respondent has not taken up the opportunity to address the Complainant’s allegations of bad faith registration and use, nor has it attempted to advance any explanation for the registration and use of the disputed domain name which might indicate that its actions were in good faith. On the basis of the present record, and in the absence of such a Response, the Panel has not identified any likely or reasonable explanation which the Respondent might have given regarding its registration and use of the disputed domain name which would have avoided a finding of registration and use in bad faith in accordance with the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **SAINT-GOIBAIN.COM**: Transferred

PANELLISTS

Name	Andrew Lothian
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DATE OF PANEL DECISION	2022-05-14
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Publish the Decision