

Decision for dispute CAC-UDRP-104501

Case number	CAC-UDRP-104501
Time of filing	2022-04-19 09:38:26
Domain names	saintgobainbarracas.com

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	Juan Salvador Tozzini
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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 several international trademarks comprising the word SAINT-GOBAIN such as the following:

- IR 740184 as of 26.07.2000 SAINT-GOBAIN logo
- IR 740183 as of 26.07.2000 SAINT-GOBAIN wordmark
- IR 596735 as of 2.11.1992 SAINT-GOBAIN logo
- IR 551682 as of 21.07.1989 SAINT-GOBAIN logo

FACTUAL BACKGROUND

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

The Complainant is a French company established 350 years ago that has consistently proved to be able to invent success

products to improve the quality of life. It is one of the top 10 industrial groups and it is known to design innovative high-performance solutions to improve our habitat and everyday life.

The disputed domain name is confusingly similar to the Complainant's well-known trademark SAINT-GOBAIN®. See WIPO Case No. D2020-3549 Compagnie de Saint-Gobain v. On behalf of saint-gobain-recherche.net owner, Whois Privacy Service / Grigore PODAC ("The Panel is satisfied that the Complainant is a well-established company which operates since decades worldwide under the trademark SAINT-GOBAIN.").

Furthermore, the disputed domain name is inactive. The Complainant contends that the Respondent has not demonstrated any activity in respect of the disputed domain name, and it is not possible to conceive of any plausible actual or contemplated active use of the domain name by the Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant's rights under trademark law.

As prior WIPO UDRP panels have held, the incorporation of a famous mark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown 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 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

1. The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark as it reproduces the trademark SAINTGOBAIN in its entirety, with the mere addition of the descriptive term "BARRACAS" and the generic Top-Level Domain ".com". As stated in a number of prior decisions rendered under the UDRP, these minor changes are not sufficient to prevent a finding of confusing similarity.

2. With reference to the Respondent's rights or legitimate interests in the disputed domain name, the Complainant states that the Respondent is in no way sponsored by or affiliated with the Complainant, nor was it ever given license, authorization, or permission to use the Complainant's trademarks in any manner, including in domain names.

The Complainant further contends that the Respondent is not commonly known by the disputed domain name and is not making a bona fide offering of goods or services or legitimate, non-commercial fair use of the disputed domain name without the intent of taking advantage of the Complainant's fame and goodwill. The Complainant has indicated that the Respondent has not proved any activity in relation to the disputed domain name.

The Panel finds that the Complainant has made a prima facie case and that the Respondent, by failing to submit a Response, has not demonstrated that it has rights or legitimate interests in the disputed domain name.

3. As to bad faith at the time of the registration, the Panel finds that, in light of the prior registration and use of the trademark SAINTGOBAIN by the Complainant and of the internationally well-known character of the trademark the Respondent was or ought to be aware of the Complainant's trademark at the time of registration.

The Panel also finds that the Respondent has not been using the contested domain name with no plans to use it or to prove a legitimate interest.

The disputed domain name is currently not resolving to an active web site, i.e. is passively held. As established in a number of prior cases, the concept of "bad faith use" in paragraph 4(b) of the Policy includes not only positive action but also passive holding, especially in cases of domain name registrations corresponding to distinctive and well-known trademarks; see i.a. the landmark case Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003.

Therefore, the Panel finds that the disputed domain name was registered and has been used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **SAINTGOBAINBARRACAS.COM**: Transferred

PANELLISTS

Name	Massimo Cimoli
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DATE OF PANEL DECISION	2022-05-16
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Publish the Decision
