

Decision for dispute CAC-UDRP-105426

Case number	CAC-UDRP-105426
Time of filing	2023-05-09 09:01:55
Domain names	saintgobainglassaccessories.com, saintgobainsafetyglass.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

Organization	sriashapuramaglass house
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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 names.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of several trademarks SAINT-GOBAIN, registered worldwide, such as:

International trademark SAINT-GOBAIN n°740184 registered on July 26, 2000;

International trademark SAINT-GOBAIN n°740183 registered on July 26, 2000;

International trademark SAINT-GOBAIN n°596735 registered on November 2, 1992;

International trademark SAINT-GOBAIN n°551682 registered on July 21, 1989.

The Complainant also owns many domain names including its trademark SAINT-GOBAIN, such as the domain name <saint-gobain.com> registered on December 29, 1995.

FACTUAL BACKGROUND

The Complainant is a French company specialized in the production, processing and distribution of materials for the construction

and industrial markets.

The Complainant is a worldwide reference in sustainable habitat and construction markets. It takes a long-term view in order to develop products and services for its customers that facilitate sustainable construction. In this way, it designs innovative, high-performance solutions that improve habitat and everyday life.

The disputed domain names <saintgobainglassaccessories.com> and <saintgobainsafetyglass.com> were registered on April 20, 2023 and resolve to registrar parking pages.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

COMPLAINANT'S CONTENTIONS:

A. The disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights

The Complainant contends that the disputed domain names are confusingly similar to its well-known and distinctive trademark SAINT-GOBAIN.

The Complainant asserts that the addition of the term "GLASS", "ACCESSORIES", and "SAFETY" is not sufficient to escape the finding that the disputed domain names are confusingly similar to the trademark SAINT-GOBAIN. It does not change the overall impression of the designation as being connected to the Complainant's trademarks. It does not prevent the likelihood of confusion between the disputed domain names and the Complainant and its trademarks.

On the contrary, these additions amplify the risk of confusion, as the complainant is a company specializing in the production, processing and distribution of materials for the construction and industrial markets.

Moreover, it is well established that "a domain name that wholly incorporates a Complainant's registered trademark may be sufficient to establish confusing similarity for purposes of the UDRP".

(WIPO Case No. D2003-0888, Dr. Ing. h.c. F. Porsche AG v. Vasily Terkin).

Furthermore, the Complainant contends that the addition of the gTLD ".COM" does not change the overall impression of the designations as being connected to Complainant's trademark. It does not prevent the likelihood of confusion between the disputed domain names and the Complainant, its trademark and its domain names associated. WIPO Jurisprudential Overview 3.0, 1.1: ("The applicable Top Level Domain ("TLD") in a domain name (e.g., ".com", ".club", ".nyc") is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.").

B. The Respondent has no rights or legitimate interests in respect of the disputed domain names

The Complainant asserts that the Respondent is not identified in the Whois database as the disputed domain names. 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. Thus, the Respondent is not known as the disputed domain names. For instance Forum Case No. FA 1781783, Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group <bobsfromsketchers.com> ("Here, the WHOIS information of record identifies Respondent as "Chad Moston / Elite Media Group." The Panel therefore finds under Policy ¶ 4(c)(ii) that Respondent is not commonly known by the disputed domain name under Policy ¶ 4(c)(ii).").

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the domain names and he is not related in any way with the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent.

Neither license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark SAINT-GOBAIN, or apply for registration of the disputed domain names.

Furthermore, the disputed domain names resolve to registrar parking pages. The Complainant contends that Respondent did not make any use of disputed domain names since their registration, and it confirms that Respondent has no demonstrable plan to use them. It demonstrates a lack of legitimate interests in respect of the disputed domain names. For instance WIPO Case No. D2000-1164, Boeing Co. v. Bressi ("the Respondent has advanced no basis on which he could conclude that it has a right or legitimate interest in the domain names").

C. The disputed domain names have been registered and are being used in bad faith

The disputed domain names were created quite recently, on April 20, 2023. The Complainant was already extensively using his trademark SAINT-GOBAIN worldwide well before that date. It is also recalled that the Complainant trademark has a well-known character worldwide and has a long-standing worldwide operating website under the <saint-gobain.com> domain name.

The disputed domain names are 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 addition of the terms "GLASS", "ACCESSORIES", and "SAFETY" amplify the confusion risk, as the Complainant is a company specializing in the production, processing and distribution of materials for the construction and industrial markets, in particular through the dedicated website: <https://www.saint-gobain-glass.com/>.

Thus, given the distinctiveness of the Complainant's trademarks and reputation, it is reasonable to infer that the Respondent has registered the domain names with full knowledge of the Complainant's trademark.

Finally, the disputed domain names resolve to registrar parking pages. The Complainant contends that the Respondent has not demonstrated any activity in respect of the disputed domain names, and it is not possible to conceive of any plausible actual or contemplated active use of the domain names 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. Based on this information, previous panels have held that the mere registration of a domain name that is identical or confusingly similar to a well-known or widely-known trademark by an unaffiliated entity may be sufficient to create a presumption of bad faith (WIPO Summary, version 3.0, sections 3.1.4). In addition, the domain names are not used or do not indicate any information about a development project. Such a practice, defined in many previous decisions as "passive holding", is considered as a bad faith use.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names are 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).

It is well established that the specific top level of a domain name such as ".com" does not affect the domain name for the purpose of determining whether it is identical or confusingly similar. Neither does the mere addition of generic terms like in this case "glass accessories" and "safety glass" or elimination of single characters like in this case the hyphen between SAINT and GOBAIN in Complainant's trademark. Therefore, the disputed domain names are confusingly similar to the Complainant's trademark SAINT-GOBAIN.

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 names (within the meaning of paragraph 4(a)(ii) of the Policy).

The Complainant contends that the Respondent is not affiliated with him nor authorized by him in any way to use his trademarks in a domain name or on a website. The Complainant does not carry out any activity for, nor has any business with the Respondent.

The Panel did not find any legitimate use of the disputed domain names and because of the evidenced confusion of the disputed domain names with Complainant's trademarks and business activities, there is no conceivable future legitimate use.

BAD FAITH

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

Given the circumstances of the case, including the provided information of the use and reputation of the Complainant's trademark SAINT-GOBAIN and the distinctive nature of this mark, it is inconceivable to the Panel in the current circumstances that the Respondent registered the disputed domain name without prior knowledge of the Complainant and the Complainant's mark.

The Panel therefore finds that the disputed domain names were registered in bad faith.

The disputed domain names currently resolve to an active website in form of a parking page with commercial links. The Panel presumes that the Respondent has allowed the disputed domain names to be used with the intent to attract Internet users for commercial gain, by creating a likelihood of confusion with the Complainant's trademark as to the source, affiliation, or endorsement of the Respondent's website to which the disputed domain name resolves. Furthermore, the Panel finds it is not possible to conceive of any plausible actual or contemplated active use of the domain names 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. The Panel finds that the mere registration of a domain name that is identical or confusingly similar to a well-known or widely-known trademark by an unaffiliated entity is sufficient to create a presumption of bad faith.

Accordingly, the Panel finds that the disputed domain names were registered and are being used in bad faith.

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 three essential issues under the paragraph 4(a) of the Policy are whether:

- i. the 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 with respect to the domain name; and
- iii. the domain name has been registered and is being used in bad faith.

2. The Panel reviewed carefully all documents provided by the Complainant. The Respondent did not provide the Panel with any documents or statements. The Panel also visited all available websites and public information concerning the disputed domain names, namely the WHOIS databases.

3. The UDRP Rules clearly say in its Article 3 that any person or entity may initiate an administrative proceeding by submitting a complaint in accordance with the Policy and these Rules.

4. The Panel therefore came to the following conclusions:

a) The Complainant states and proves that the disputed domain names are identical to its trademarks and its domain names. Indeed, the trademark is fully incorporated in the disputed domain names.

The disputed domain names are therefore deemed identical.

b) The Respondent is not generally known by the disputed domain names and have not acquired any trademark or service mark rights in the name or mark, nor is there any authorization for the Respondent by the Complainant to use or register the disputed domain names.

The Panel therefore finds that the Respondent does not have rights or legitimate interest with respect to the disputed domain names.

c) It is clear that the Complainant's trademarks and website(s) were used by the Complainant long time before the disputed domain names were registered. The disputed domain names resolve to parking pages with commercial links. It seems inconceivable that the Respondent will be able to make any good faith use of the disputed domain names as part of an e-mail address. It is concluded that the Respondent by attempting to attract Internet users for commercial gain, by creating a likelihood of confusion with the Complainant's trademark as to the source, affiliation, or endorsement of the Respondent's website to which the disputed domain names resolve makes bad faith use of the disputed domain names.

The Panel therefore finds that the disputed domain names have been registered and are being used in bad faith.

For the reasons stated above, it is the decision of this Panel that the Complainant has satisfied all three elements of paragraph 4(a) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **saintgobainglassaccessories.com**: Transferred

2. saintgobainsafetyglass.com: Transferred

PANELLISTS

Name	Lars Karnoe
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DATE OF PANEL DECISION 2023-06-12

Publish the Decision
