

Decision for dispute CAC-UDRP-105874

Case number CAC-UDRP-105874

Time of filing 2023-10-16 09:32:25

Domain names saint-gobainn.com

Case administrator

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

Complainant

Organization COMPAGNIE DE SAINT-GOBAIN

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Organization The Macomb Group, Inc.

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 has proven to be the owner of the SAINT-GOBAIN trademarks.

The Complainant is, inter alia, the owner of the following trademarks:

International trademark registration no. 740184 "SAINT-GOBAIN" device, registered on July 26, 2000;

International trademark registration no. 740183 "SAINT-GOBAIN" device, registered on July 26, 2000;

International trademark registration no. 551682 "SAINT-GOBAIN" device, registered on July 21, 1989.

FACTUAL BACKGROUND

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

The Complainant is a French company specializing in the production, processing and distribution of materials for the construction and industrial markets. The Complainant is one of the top industrial groups in the world with around 51.2 billion euros in turnover in 2022 and 168,000 employees.

The Complainant also owns and communicates on the Internet through various domain names, such as <saint-gobain.com>, registered on December 29, 1995.

The disputed domain name <saint-gobainn.com> was registered on October 4, 2023, and resolves to a parking page with commercial links. In addition, MX servers are also configured.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant contends that:

1. The disputed domain name is confusingly similar to the Complainant's trademarks

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

The Complainant further affirms that the disputed domain name represents a clear example of typosquatting.

2. The Respondent does not have any rights or legitimate interest in the disputed domain name

The Complainant contends that the Respondent is not commonly known by the disputed domain name and that the Respondent is not affiliated with or authorized by the Complainant in any way. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and is not related to the Complainant's business in any way. The Complainant does not carry out any activity for, nor has any business dealings with, the Respondent.

3. The disputed domain name has been registered and is being used in bad faith

The Complainant contends that owing to the distinctiveness and renown of the Complainant's trademarks, it is inconceivable that the Respondent could have registered the disputed domain name without actual knowledge of Complainant's rights in the SAINT-GOBAIN trademark.

The Complainant further contends that the misspelling of the SAINT-GOBAIN trademark was intentionally designed to be confusingly similar with the Complainant's trademark, and that this is evidence of bad faith.

In addition, the Complainant contends that the Respondent has attempted to attract Internet users for commercial gain to his own website where a parking page with commercial links is displayed.

Finally, the Complainant affirms that MX servers are configured for the disputed domain name and this suggests that the disputed domain name can be actively used for e-mail purposes, and, quoting previous UDRP decisions, concludes that it is inconceivable that the Respondent will be able to make any good faith use of the disputed domain name as part of an e-mail address.

RESPONDENT:

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

A) Confusing similarity

The Panel agrees with the Complainant's assertions that slight spelling variations do not prevent a disputed domain name from being confusingly similar to the Complainant's trademark and that the present case represents a clear case of typo-squatting.

B) Lack of legitimate rights or interests

The disputed domain name is a distinctive, non-descriptive name. It is unlikely that the Respondent registered the disputed domain name without having the Complainant firmly in mind. The Complainant's assertions that the Respondent is not commonly known by the disputed domain name and is not affiliated with nor authorized by the Complainant are sufficient to constitute a prima facie demonstration of absence of rights or legitimate interest in the disputed domain name on the part of the Respondent. The burden of evidence therefore shifts to the Respondent to show, using tangible evidence, that it does have rights or legitimate interests in the disputed domain name. The Respondent has made no attempt to do so.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

C) Registered and Used in Bad Faith

The Complainant gives sound bases for its contention that the disputed domain name was registered and has been used in bad faith.

Firstly, owing to 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 trademarks, and so the Panel finds on the balance of probabilities that the Respondent was aware of the Complainant's trademarks when registering the disputed domain name.

Secondly, the Panel accepts the Complainant's unchallenged assertion that the Respondent registered the disputed domain name with the aim of creating a likelihood of confusion with the Complainant's trademark.

Thirdly, the disputed domain name appears to be a clear case of typosquatting.

Fourthly, noting that MX servers are configured for the disputed domain name, the Panel agrees that it is inconceivable that the Respondent will be able to make any good faith use of the disputed domain name as part of an e-mail address.

Finally, the Respondent has not responded to nor denied any of the assertions made by the Complainant in this proceeding.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **saint-gobainn.com**: Transferred
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PANELLISTS

Name	Fabrizio Bedarida
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DATE OF PANEL DECISION **2023-11-16**

Publish the Decision
