Decision for dispute CAC-UDRP-105894

Case number	**CAC-UDRP-105894**
Time of filing	**2023-10-20 09:21:48**
Domain names	**saintgobainpfoalawsuit.com**

Case administrator

Name	**Olga Dvořáková (Case admin)**

Complainant

Organization	**COMPAGNIE DE SAINT-GOBAIN**

Complainant representative

Organization	**NAMESHIELD S.A.S.**

Respondent

Name	**Eric Chaffin**

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 *inter alia* the owner of the international trademark registration no. 740183 "SAINT-GOBAIN", registered on July 26, 2000 (hereinafter referred to as the "Trademark").

FACTUAL BACKGROUND

The Complainant is a French company specializing in the production, processing, and distribution of materials for the construction and industrial markets. The Complainant was founded in 1665 and is today a leading industrial group in the world with around 51.2 billion euros in turnover in 2022 and 168,000 employees. Information about the Complainant's products and services is available online at <saint-gobain.com>.

The disputed domain name was registered on January 11, 2014, and is currently being used for a website containing advertising links, which are provided by the Registrar.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant argues that the disputed domain name is confusingly similar to the Trademark. The addition of the terms "PFOA" and "lawsuit" is, according to the Complainant, insufficient to distinguish the disputed domain name from the Trademark.

Furthermore, the Complainant asserts that the Respondent lacks rights or legitimate interests in the disputed domain name. The Complainant points out that the Respondent is not identified in the Whois as the disputed domain name, that the Respondent has no rights or legitimate interests in respect of the disputed domain name and he is not related in any way with the Complainant, that neither license nor authorization has been granted to the Respondent to make any use of the Trademark, or apply for registration of the disputed domain name by the Complainant, and that use of the term “PFOA” in the disputed domain name, which refers with Perfluorooctanoic acid, toxic substances released during the manufacturing or processing of certain plastic materials, constitutes an act of tarnishment.

Lastly, the Complainant contends that the disputed domain name was registered and is being used in bad faith. The Complainant argues that the Trademark is well-known, as already confirmed by prior Panels under the UDRP, and that the disputed domain name resolves to a parking page with commercial links. The Complainant contends the Respondent has attempted to attract Internet users for commercial gain to his own website thanks to the Complainant’s trademarks for its own commercial gain.

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

Under paragraph 4(a) of the Policy, the Complainant must prove that each of the following three elements is present:

(i) the disputed domain name is identical or confusingly similar to the Complainant's trademark; and

(ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and

(iii) the disputed domain name has been registered and is being used in bad faith.

1.

The Panel acknowledges that the disputed domain name is indeed confusingly similar to the Trademark, as it fully incorporates the well-known Trademark. It is established that a domain name that entirely incorporates a trademark may still be considered confusingly similar to that trademark under the Policy, even when supplemented with generic terms like "PFOA" and "lawsuit."

2.

The Complainant has substantiated that the Respondent has no rights or legitimate interests in the disputed domain name. The Panel finds that the Complainant has fulfilled its obligations under paragraph 4(a)(ii) of the Policy. The Respondent has not contested these assertions in any manner and, therefore, has failed to demonstrate any rights or legitimate interests in the disputed domain name. Based on the evidence before the Panel, the Panel cannot find any rights or legitimate interests of the Respondent either, as the disputed domain name is not generic and is used in connection with a website featuring advertising links to third parties' websites.

3.

The Panel is also satisfied that the Respondent registered the disputed domain name with full knowledge of the Complainant and its rights in the Trademark as the Trademark is distinctive to a very high degree and used by a multinational corporation for centuries.

Regarding bad faith use, by utilizing the disputed domain name for a landing page featuring advertising links promoting third-party products and services, the Respondent was, in all likelihood, trying to divert traffic intended for the Complainant’s website to its own for commercial gain as set out under paragraph 4(b)(iv) of the Policy. It is well-established that a respondent, as the registered owner of the domain name, bears ultimate responsibility for the information available on the website and all content posted there, regardless of its origin or the parties profiting from its commercial use.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **saintgobainpfoalawsuit.com**: Transferred

PANELLISTS

Name	**Peter Müller**

DATE OF PANEL DECISION 2023-11-17

Publish the Decision