

Decision for dispute CAC-UDRP-105870

Case number	CAC-UDRP-105870
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Time of filing	2023-10-12 09:25:28
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Domain names	saint-gobain.store
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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	Ali Amin-Javaheri
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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 trademark registrations for the wording "SAINT-GOBAIN", including:

- 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 the domain name <saint-gobain.com> registered on December 29, 1995.

FACTUAL BACKGROUND

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

The Complainant states that it is a French company and a top industrial group in the world, with around 51.2 billion euros in turnover in 2022 and 168,000 employees producing, processing and distributing materials for the construction and industrial markets.

The Complainant further states that it is the owner of the trademark "SAINT-GOBAIN" since the end of the 80's and of various domain

names, such as the domain name <saint-gobain.com>. The disputed domain name was registered on October 23, 2019. The domain name resolves to a parking page with commercial links.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.

The Respondent replied after the deadline for substantiating its arguments in support of the registration of the disputed domain name through a brief e-mail, in which it is simply affirmed that <saint-gobain.store> would have been registered in accordance with a contract agreement between the Parties. However, no copy of a contract was provided.

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

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).

The disputed domain name <saint-gobain.store> is confusingly similar to its trademark “SAINT-GOBAIN”, as it incorporates the trademark in its entirety.

Indeed, the addition of new gTLD .store is not sufficient at all to escape the finding that the domain name is confusingly similar to the trademark “SAINT-GOBAIN”.

See similar case: Forum Case No. FA 153545, Gardline Surveys Ltd v. Domain Finance Ltd.

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).

According to the WIPO case No. D2003-0455, Croatia Airlines d. d. v. Modern Empire Internet Ltd., the Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a) (ii) of the Policy.

In the case at hand, the Respondent is not affiliated with the Complainant nor authorized by it in any way to use the trademark "SAINT-GOBAIN". The Complainant does not carry out any activity for, nor has any business with the Respondent. The disputed domain name is parked: therefore, the Respondent did not make any use of disputed domain name since its registration, and it confirms that Respondent has no demonstrable plan to use the disputed domain name. It demonstrates a lack of legitimate interests in respect of the disputed domain name.

The Respondent replied well after the deadline for substantiating its arguments in support of the registration of the disputed domain name through a brief e-mail, in which it is simply affirmed that "...The domain in question was acquired as part of a contract executed by saint-gobain and knowde. We have been contracted to build a white label store for them in this case saint-gobain.store. After the store is completed we then transfer the domain to the customer...". However, no copy of a contract was provided and for this reason the Panel cannot ascertain the truthfulness of such statement.

In the lack of real evidence attesting the existence of a written agreement between the parties, the Panel believes that the Respondent has no rights or legitimate interests to the disputed domain name <saint-gobain.store>.

The Panel finds that the Complainant successfully submitted prima facie evidence that the Respondent has made no use of, or demonstrable preparations to use, neither of the disputed domain name in connection with a bona fide offering of goods or services, nor is making a legitimate non-commercial or fair use of the disputed domain name. Indeed, given the distinctiveness of the Complainant's trademark and reputation, it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's trademark "SAINT-GOBAIN". Please see for instance WIPO Case No. D2004-0673, Ferrari S.p.A v. American Entertainment Group Inc.

Furthermore, since the disputed domain name resolves to a registrar parking page with commercial links, it is very likely 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 (see WIPO Case No. D2018-0497, StudioCanal v. Registration Private, Domains By Proxy, LLC / Sudjam Admin, Sudjam LLC).

As indicated in other decisions, the Complainant's "SAINT-GOBAIN" trademark is deemed well-known and highly distinctive. In this regard, it is hard to believe that the Respondent was not aware of the registration and the use of the Complainant's trademarks before the registration of the disputed domain name.

Respondent simply affirmed - after the deadline for submitting its arguments - that the disputed domain name was registered in connection with an undefined agreement between the Parties but did not provide any document in this regard.

In the absence of real evidence in the merits of the case from the Respondent and given the reputation of the Complainant and its trademarks, the Panel infers that the Respondent had the Complainant's trademarks "SAINT-GOBAIN" in mind when registering the disputed domain name. Consequently, the Panel believes that the same was registered and is being 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. **saint-gobain.store**: Transferred

PANELLISTS

Name	Tommaso La Scala
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DATE OF PANEL DECISION 2023-11-19

Publish the Decision
