

Decision for dispute CAC-UDRP-105974

Case number	CAC-UDRP-105974
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Time of filing	2023-11-15 10:08:35
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Domain names	siant-gobain.com
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Case administrator

Name	Olga Dvořáková (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	Administration Superior
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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 trademarks SAINT-GOBAIN, which are registered in many jurisdictions, including International trademark SAINT-GOBAIN, with registration number 740183, registered on July 26, 2000, and designated for, *inter alia*, Canada.

FACTUAL BACKGROUND

The Complainant is a French company operating in the production, processing and distribution of materials for the construction and industrial markets.

The disputed domain name was registered on November 1, 2023 and resolves to an inactive page, with MX servers configured.

PARTIES CONTENTIONS

No administratively compliant Response has been filed. The Arbitration Center did, however, receive a letter from a law firm on behalf of Superior Strategies Inc. on December 4, 2023, who claimed to be in receipt of the Center's notification of proceedings, and

contending that Superior Strategies neither owns nor utilizes the disputed domain name, and there has never been any affiliation with the disputed domain name.

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 Panel infers from the Superior Strategies Inc.'s counsel letter mentioned above that it is likely that the Respondent must have used the address of Superior Strategies, and a name which suggest affiliation with Superior Strategies, but has actually stolen such company identity. Therefore the Respondent did not reply to the Complainant's contentions. However, the consensus view of UDRP panels is that the Respondent's default does not automatically result in a decision in favor of the Complainant. The Complainant must still establish each of the three elements required by paragraph 4(a) of the Policy. Although the Panel may draw appropriate inferences from a respondent's default, paragraph 4 of the Policy requires the Complainant to support its assertions with actual evidence in order to succeed in these proceedings. Paragraph 14(b) of the Rules provides that, in the absence of exceptional circumstances, the Panel shall draw such inferences as it considers appropriate from a failure of a party to comply with a provision or requirement of the Rules. The Panel finds that in this case there are not such exceptional circumstances.

The Panel finds that the disputed domain name is confusingly similar to the SAINT-GOBAIN trademark identified above, as the disputed domain name contains the trademark in its entirety, albeit with the second and third letter reversed. Such reversion is insignificant to the overall impression.

The Complainant has contended that the Respondent has neither licensed or authorized the Respondent to register or use the disputed domain name nor is the Respondent identified in the Whois database as the disputed domain name. The Complainant also claims that the disputed domain name is a typosquatted version of the trademark. The Panel finds that the composition of the disputed domain name naturally leads to an inference of connection with the Complainant, and that the Complainant has made out a prima facie case, calling for an answer from the Respondent. The Respondent has, however, not responded and the Panel is unable to conceive of any basis upon which the Respondent could sensibly be said to have any rights or legitimate interests in respect of the intentionally confusingly similar disputed domain name. The Panel accordingly finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Many previous panels have found the SAINT-GOBAIN trademark to be well-known (e.g., *Compagnie De Saint-Gobain v. Zhao Zhong Xian*, WIPO Case No. D2016-2120; *Compagnie de Saint-Gobain v. On behalf of saint-gobain-recherche.net owner, Whois Privacy Service / Grigore PODAC*, WIPO Case No. D2020-3549; *Compagnie de Saint-Gobain v. Ayache Mohammed*, WIPO Case No. D2021-3633; and *Compagnie de Saint-Gobain v. Tony Schreffler*, CAC-UDRP-105963), and the Panel in the current dispute has no reason to doubt such finding of the SAINT-GOBAIN trademark being well-known. The fact that the Respondent has included the SAINT-GOBAIN trademark in its entirety, with "ai" replaced by "ia", is likely an intentional typographical error, from which the Panel infers that the Respondent was aware of the SAINT-GOBAIN trademark when registering the disputed domain name. The Panel is therefore satisfied that the disputed domain name was registered in bad faith.

The Complainant must also prove that the Respondent uses the disputed domain name in bad faith. Under the circumstances at hand,

the Panel finds that the passive holding of the disputed domain name constitutes use in bad faith. Section 3.3 of the WIPO Overview 3.0 states the following on this issue: “From the inception of the UDRP, panelists have found that the non-use of a domain name (including a blank or ‘coming soon’ page) would not prevent a finding of bad faith under the doctrine of passive holding. While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put.” In this case, the Panel concludes that the following cumulative circumstances are indicative of the Respondent’s passive holding of the disputed domain name in bad faith: (i) the fact that the SAINT-GOBAIN mark is well-known, and that the Respondent is found to have likely had the SAINT-GOBAIN trademark in mind when it registered the disputed domain name; (ii) the similarity between the Complainant’s registered trademark and the disputed domain name; (iii) the Respondent’s likely use of a false identity and (iv) the lack of a Response in the current procedure.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **siant-gobain.com**: Transferred

PANELLISTS

Name	Alfred Meijboom
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DATE OF PANEL DECISION 2023-12-15

Publish the Decision