

Decision for dispute CAC-UDRP-105966

Case number **CAC-UDRP-105966**

Time of filing **2023-11-13 10:27:55**

Domain names **saiut-gobain.com**

Case administrator

Name **Olga Dvořáková (Case admin)**

Complainant

Organization **COMPAGNIE DE SAINT-GOBAIN**

Complainant representative

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

Respondent

Organization **WhimpEx**

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 registered owner of several trademark registrations consisting of the terms "SAINT-GOBAIN", in particular International trademark "SAINT-GOBAIN", no 740183 registered on July 26, 2000 for goods and services in classes 01, 02, 03, 06, 07, 08, 09, 10, 11, 12, 17, 19, 20, 21, 22, 23, 24, 37, 38, 40, 42 and designating many countries worldwide, including the United States of America, where the Respondent is supposed to be located.

FACTUAL BACKGROUND

It results from the Complainant's undisputed allegations that it is a French company specialized in the production, processing and distribution of materials for the construction and industrial markets. The company generates a turnover of around 51.2 billion euros in 2022 and employs 168,000 employees

Furthermore, the registrar verification revealed that the Respondent registered the disputed domain name on May 15, 2023.

The disputed domain name currently resolves to an "Error"-page. MX servers have been activated in relation with the disputed domain name.

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.

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

1.
The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark <SAINT-GOBAIN>.

The disputed domain name consists of a common, obvious, or intentional misspelling of the trademark since the letter "n" in the element <SAINT> is substituted by the letter "u". The Panel considers this domain to be confusingly similar to the relevant mark for purposes of the first element (cf. paragraph 1.9. of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, "WIPO Jurisprudential Overview 3.0").

2.
In the absence of any Response, or any other information from the Respondent indicating the contrary, the Panel further holds that the Complainant successfully presented its *prima facie* case and that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

No content is displayed on the website to which the disputed domain name resolves. Such use can neither be considered a *bona fide* offering of goods or services nor a legitimate non-commercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue in the sense of paragraph 4(c)(i) and (iii) of the Policy. In addition, the disputed domain name consists of an obvious misspelling of the Complainant's trademark <SAINT-GOBAIN> so that this Panel finds it most likely that the Respondent selected the disputed domain name with the intention to take advantage of the Complainant's registered trademark and thus misleading Internet users through the implied affiliation (see section 2.5.1 of the WIPO Overview 3.0).

Finally, the Panel does not dispose of any elements that could lead the Panel to the conclusion that the Respondent is commonly known by the disputed domain name or that it has acquired trademark rights pursuant to paragraph 4(c)(ii) of the Policy.

3.
Finally, the Panel finds that the disputed domain name has been registered and is being used in bad faith.

According to the Complainant's documented and undisputed allegations, the Respondent does not actively use the disputed domain

name. With comparative reference to the circumstances set out in paragraph 4(b) of the UDRP deemed to establish bad faith registration and use, prior UDRP panels have found that the apparent lack of active use (*e.g.*, to resolve to a website) of the domain name without any active attempt to sell or to contact the trademark holder (passive holding), does not as such prevent a finding of bad faith under the doctrine of passive holding. In the case at hand, the Panel finds that the circumstances listed hereinafter and surrounding the registration suggest that the Respondent was aware that he has no rights or legitimate interests in the disputed domain name, and that the disputed domain name has been registered and is being used in bad faith:

- a. the fact that the Respondent connected the disputed domain name to active MX records;
- b. the fact that the details disclosed for the Respondent by the Registrar were incomplete, noting the mail courier’s inability to deliver the CAC’s written communications;
- c. the Respondent’s failure to respond to the Complaint and to even accede the platform;
- d. the distinctiveness of the trademark <SAINT-GOBAIN> which has existed since decades; and
- e. the trademark <SAINT-GOBAIN> is almost identically incorporated in the disputed domain name.

In addition, due to these circumstances this Panel concludes that the Respondent knew or should have known the trademark <SAINT-GOBAIN> when it registered the disputed domain name, and that there is no plausible legitimate active use that the Respondent could make of the disputed domain name.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

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

PANELLISTS

Name	Tobias Malte Müller
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DATE OF PANEL DECISION 2023-12-17

Publish the Decision