Decision for dispute CAC-UDRP-106104

Case number	CAC-UDRP-106104
Time of filing	2023-12-27 09:41:24
Domain names	saintgobain.shop

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	COMPAGNIE DE SAINT-GOBAIN

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	MEI WANG

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 the following trademarks:

- European trademark SAINT-GOBAIN n°001552843 registered on December 18th, 2001;
- 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.

FACTUAL BACKGROUND

The Complainant, Compagnie de Saint-Gobain, is a large French company specialized in the production, processing and distribution of materials, products and solutions for the construction, industry and mobility markets. It can trace its origins to the 17th century and currently has a presence in 75 countries with 168,000 employees worldwide; it had a turnover of €51.2 billion in 2022.

Besides the registered trademarks, the Complainant also adduced evidence to show it is the registrant of the domain name <saint-gobain.com>, registered on 29 December 1995.

No information is known about the Respondent who registered the disputed domain name <saintgobain.shop> on 29 December 2023 and redirects to a Dan.com page where it is offered for sale for 1450 USD.

PARTIES CONTENTIONS

COMPLAINANT' CONTENTIONS:

Identical or confusingly similar

The Complainant argues that the disputed domain name <saintgobain.shop> and the Complainant's registered trademarks SAINT-GOBAIN are confusingly similar.

Particularly, the Complainant contends that “the domain name includes (the Complainant’s registered trademarks) it in its entirety, without any addition or deletion, except for the hyphen, which is irrelevant”.

No rights or legitimate interests

The Complainant argues that there is no evidence at all that the Respondent is commonly known by the disputed domain name nor appear in the Whois database as the disputed domain name.

Moreover, the Complainant states that the Respondent has not been licensed or authorized in other way to use the Complainant’s trademarks nor is in any way related to the Complainant.

Finally, the Complainant contends that the disputed domain name is offered for sale for 1450 USD which considers as a clear evidence of the Respondent’s lack of rights or legitimate interest.

Registered and used in bad faith

As far as bad faith registration is concerned, the Complainant states that its registered trademarks are widely known and were that past panels have confirmed the notoriety of the trademark SAINT-GOBAIN.

Given the distinctiveness of the Complainant's trademark and reputation, according to the complainant, the Respondent certainly had full knowledge of the Complainant rights over the name SAINT-GOBAIN at the time of the disputed domain name’s registration.

Moreover, the Complainant contends that the fact that the disputed domain name has not been actively used is per se an evidence of bad faith registration and use.

Finally, the Complainant contends that the Respondent has registered the disputed domain name only in order to sell it back for out-of-pockets costs, which evinces bad faith registration and use.

RESPONDENT'S CONTENTIONS:

The Respondent did not respond to the Complaint.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical to trademarks 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

Paragraph 15 of the Rules states that the Panel shall decide a Complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law deemed applicable.

In the case of default by a Party, Rule 14 states that if a Party, in the absence of exceptional circumstances, does not comply with a provision of, or requirement under the Rules, the Panel shall draw such inferences therefrom as appropriate.

In the present case, the Respondent has not submitted any Response and consequently has not contested any of the contentions made by the Complainant.

The Panel proceeds therefore to decide only on the basis of the Complainant’s factual statements and the documentary evidences provided in support of them.

With reference to the UDRP three-part cumulative test, the Panel finds that:

1. The disputed domain name and the Complainant’s previously registered trademarks are identical and infers that paragraph 4(a)(i) of the Policy is satisfied, since the variation in the TLD “.shop”, which would usually be disregarded as it is a technical requirement of registration, do not later the overall very similar impression the disputed domain name and the registered trademarks produce.
2. According to the Complainant’s contentions and evidences submitted within this proceeding, which were not disputed, the Respondent does not appear to be in any way related to the Complainant's business, does not act as the agent of the Complainant nor currently known and has never been known as “SAINT-GOBAIN”, or any combination of such trademark.Furthermore, the disputed domain name is not associated with any business activity and redirects to a Dan.com page where it is offered for sale for 1450 USD. Therefore, it is reasonable to infer that the Respondent does not have any legitimate interest in the disputed domain name and rather appears to use the disputed domain name for his own commercial gain. Consequently, and in the absence of a Response, the Panel finds that the Respondent have no rights or legitimate interests in the disputed domain name, so that the requirements of paragraph 4(a)(ii) of the Policy are met.

3. By choosing and registering the disputed domain name which represents an identical version of the Complainant’s well-known trademark, the Respondent is likely to be engaged in bad faith registration. At the same time, offer to sell the disputed domain name for a price which exceeds several time the original price of the domain name can be considered as a clear evidence of the Respondent’s bad faith use. In other words, in the absence of sufficient evidence to the contrary and rebuttal from the Respondent, the Panelist infer that by choosing to register the domain name which is identical to Complainant’s trademarks and by intending to exploit, for commercial gain, ownership of such domain name, the Respondent’s activity is indicative of registration and use of the disputed domain name in bad faith. Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **saintgobain.shop**: Transferred

PANELLISTS

Name	**Hana Číslerová**

DATE OF PANEL DECISION 2024-01-31

Publish the Decision