Decision for dispute CAC-UDRP-106296

Case number	CAC-UDRP-106296
Time of filing	2024-02-29 10:05:29
Domain names	saints-gobains.net

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	COMPAGNIE DE SAINT-GOBAIN

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	Claire Carme

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, registered worldwide, such as:

- European trademark SAINT-GOBAIN n°001552843 registered since March 9, 2000;
- 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 many domain names including its trademark SAINT-GOBAIN, such as the domain name <saint-gobain.com> registered on December 29, 1995.

FACTUAL BACKGROUND

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

Saint-Gobain is a worldwide reference in sustainable habitat and construction markets. It takes a long-term view in order to develop

products and services for its customers that facilitate sustainable construction. In this way, it designs innovative, high-performance solutions that improve habitat and everyday life.

For 350 years, the Complainant has consistently demonstrated its ability to invent products that improve quality of life. It is now one of the top industrial groups in the world with around 51.2 billion euros in turnover in 2022 and 168,000 employees.

The Complainant is the owner of several trademarks SAINT-GOBAIN, registered worldwide.

The Complainant also owns many domain names including its trademark SAINT-GOBAIN, such as the domain name <saint-gobain.com> registered on December 29, 1995.

The disputed domain name was registered on February 21, 2024 and resolves to an inactive page. Besides, MX servers are configured.

The Complainant contends that the disputed domain name is confusingly similar to its well-known and distinctive trademark SAINT-GOBAIN.

In the view of Complainant, the obvious misspelling of the Complainant's trademarks SAINT-GOBAIN (i.e. the addition of the letter "S" twice) is characteristic of a typosquatting practice intended to create confusing similarity between the Complainant's trademark and the disputed domain name.

Furthermore, the Complainant contends that the addition of the gTLD ".NET" does not change the overall impression of the designation as being connected to the Complainant's trademark. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and its domain names associated.

The Complainant asserts that the Respondent is not identified in the Whois as the disputed domain name. Past panels have held that a Respondent was not commonly known by a disputed domain name if the Whois information was not similar to the disputed domain name. Thus, the Respondent is not known as the disputed domain name.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the domain name and he is not related in any way with the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent.

Neither licence nor authorization has been granted to the Respondent to make any use of the Complainant's trademark SAINT-GOBAIN, or apply for registration of the disputed domain name by the Complainant.

Besides, the Complainant also claims that the disputed domain name is a typosquatted version of the trademark SAINT-GOBAIN. Typosquatting is the practice of registering a domain name in an attempt to take advantage of Internet users' typographical errors and can be evidence that a respondent lacks rights and legitimate interests in the domain name.

Furthermore, the disputed domain name points to an inactive page. The Complainant contends that the Respondent did not make any use of the disputed domain name, and it confirms that Respondent has no demonstrable plan to use the disputed domain name. It proves in the view of Complainant a lack of legitimate interests in respect of the disputed domain name except in order to create a likelihood of confusion with the Complainant and its trademark.

The Complainant states, that the disputed domain name was created quite recently. The Complainant was already extensively using his trademark SAINT-GOBAIN worldwide well before that date. It is also recalled that the Complainant trademark has a well-known character worldwide and has a long-standing worldwide operating website under the domain name <saint-gobain.com>.

The Complainant states that the Respondent obviously knew the prior rights and wide use of SAINT-GOBAIN by the Complainant. That is the sole and only reason why he registered the disputed domain name.

Furthermore, the Complainant states the misspelling of the trademark SAINT-GOBAIN was intentionally designed to be confusingly similar with the Complainant's trademark. Previous UDRP panels have seen such actions as evidence of bad faith. The disputed domain name further points to an inactive page. The Complainant argues that the Respondent has not demonstrated any activity in respect of the disputed domain name, and it is not possible to conceive of any plausible actual or contemplated active use of the domain name by the Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant's rights under trademark law.

Complainant states that prior panels have held that, the incorporation of a famous mark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use.

Finally, the disputed domain name has been set up with MX records which suggests that it may be actively used for e-mail purposes. This also indicates bad faith registration and use in the view of Complainant because any e-mail emanating from the disputed domain name could not be used for any good faith purpose.

In light of the above, the Complainant concludes that the Respondent has registered and is using the disputed domain name in bad faith.

PARTIES CONTENTIONS

The Complainant´s contentions are summarised above.

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. Identical or Confusingly Similar

The Panel finds that the Complainant has established rights over the trademark SAINT-GOBAIN based on the trademark registration and the related trademark certificates submitted as annexes to the Complaint.

In the case at hand, the Complainant's trademark SAINT-GOBAIN is entirely reproduced in the disputed domain name, with the mere addition of the letter "s" at the end of both words and of the gTLD ".net", which is commonly disregarded under the first element confusing similarity test.

As found in a number of prior cases decided under the Policy, where a trademark is recognizable within a domain name, the addition of generic or descriptive terms or letters does not prevent a finding of confusing similarity under the first element.

Therefore, the Panel finds that the Complainant has proven that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights according to paragraph 4(a)(i) of the Policy.

2. Rights or Legitimate Interests

Complainant made clear, that the Respondent has no relationship whatsoever with the Complainant or its trademark SAINT-GOBAIN and is not commonly known by the disputed domain name. The disputed domain name does not resolve to an active web page. The Respondent is therefore not making any legitimate non-commercial or fair use of the disputed domain name. The Respondent also did not respond. When a respondent remains completely silent in the face of a prima facie case that it lacks any rights or legitimate interests in respect of a domain name, a complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the Policy. Here the Complainant has presented an abundance of evidence to show that the Respondent has no plausible right or legitimate interest in respect of the disputed domain name and the Panel so finds. Therefore, the Panel finds that the Complainant has satisfied the second element of the Policy.

3. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy requires that the Complainant prove that the disputed domain name was registered and is being used by the Respondent in bad faith.

The Panel finds that the disputed domain name is a typosquatted version of the trademark SAINT-GOBAIN. Typosquatting is the

practice of registering a domain name in an attempt to take advantage of Internet users' typographical errors and can be evidence that a respondent lacks rights and legitimate interests in the domain name. The obvious misspelling of the Complainant's trademarks SAINT-GOBAIN (the addition of the letter "S" twice) is characteristic of a typosquatting practice intended to create confusing similarity between the Complainant's trademark and the disputed domain name. Furthermore, the disputed domain name points to an inactive page. The Respondent does not use the disputed domain name but has MX servers configured, making it evident that the disputed domain name is configured to email addresses and used to send emails.

Given the distinctiveness of the Complainant's trademark and reputation and long use, the Panel also finds that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademark SAINT-GOBAIN, and therefore could not ignore the Complainant.

Consequently, the Complainant concludes that the Respondent has registered and is using the disputed domain name in bad faith.

Therefore, the Panel finds that the Complainant has also proven the requirement prescribed by 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. **saints-gobains.net**: Transferred

PANELLISTS

Name	**Jan Schnedler**

DATE OF PANEL DECISION 2024-03-23

Publish the Decision