Decision for dispute CAC-UDRP-106693

Case number	CAC-UDRP-106693
Time of filing	2024-07-15 10:12:01
Domain names	saintt-gobaiin.com

Case administrator

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

Complainant

Organization	COMPAGNIE DE SAINT-GOBAIN

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Organization	Capital

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 following trademarks SAINT-GOBAIN:

- European trademark SAINT-GOBAIN no 001552843 registered since March 9, 2000;
- International trademark SAINT-GOBAIN no 740184 registered on July 26, 2000;
- International trademark SAINT-GOBAIN no 740183 registered on July 26, 2000;
- International trademark SAINT-GOBAIN no 596735 registered on November 2, 1992;
- International trademark SAINT-GOBAIN no 551682 registered on July 21, 1989.

The Complainant also owns domain name <saint-gobain.com> registered on December 29, 1995. SAINT-GOBAIN is also part of the company name of the Complainant.

The disputed domain name <saintt-gobaiin.com> was registered on July 9, 2024.

PARTIES CONTENTIONS

The Complainant claims it is a company specialized in the development of products and services that facilitate sustainable construction and designing solutions that improve habitat and everyday life. It is one of the top 100 industrial groups in the world

with around 47.9 billion euros in turnover in 2023 and 160,000 employees.

The Complainant is the owner of several trademarks SAINT-GOBAIN, registered worldwide, and also owns many domain names including its trademark SAINT-GOBAIN. SAINT-GOBAIN is also commonly used to designate the company name of the Complainant.

The disputed domain name was registered on July 9, 2024, and resolves to a parking page. The MX servers are also configured.

The Complainant contends that the disputed domain name is confusingly similar to its well-known and distinctive trademark SAINT-GOBAIN. The obvious misspelling of the Complainant's trademarks SAINT-GOBAIN (i.e. the addition of the letters "T" and "I") is characteristic of a typosquatting practice intended to create confusing similarity between the Complainant's trademark and the disputed domain name. The Complainant further contends that the addition of the gTLD ".COM" does not prevent the likelihood of confusion between the disputed domain name and Complainant, its trademark and its domain names associated.

The Complainant asserts that 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 or apply for registration of the disputed domain name by the Complainant.

Besides, the typosquatting is the practice of registering a domain name in an attempt to rights and legitimate interests in the domain name. Furthermore, the disputed domain name resolves to a parking page. The Complainant finally contends that the Respondent did not make any use of disputed domain name and has no demonstrable plan to use the disputed domain name. It proves 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 disputed domain name was created quite recently. The Complainant was already extensively using his trademark worldwide well before that date. It is also recalled that the Complainant trademark has a well-known character worldwide, especially in the United States, and has a long-standing worldwide operating website under the <saint-gobain.com> domain name. The disputed domain name is confusingly similar to the Complainant's well-known trademark (WIPO Case No. D2020-3549). 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 litigious domain name.

Furthermore, the misspelling of the trademark was intentionally designed to be confusingly similar with the Complainant's trademark. Previous UDRP Panels have seen such actions as evidence of bad faith (Forum Case No. FA 877979).

Furthermore, the disputed domain name redirects to a parking page and 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. 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 is also indicative of bad faith registration and use because any e-mail emanating from the disputed domain name could not be used for any good faith purpose (CAC Case No. 102827).

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

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

For the Complainant to succeed it must prove, within the meaning of paragraph 4(a) of the Policy, that:

(i) The domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
(ii) The respondent has no rights or legitimate interests in respect of the domain name; and
(iii) The domain name has been registered and is being used in bad faith.

I. Identical or Confusingly Similar

The Complainant has established the fact that it has valid rights for the several SAIN-GOBAIN trademarks including European trademark registered in 2000 or international trademarks registered in 2000, 1992 and 1989. The disputed domain name was registered on July 9, 2024, i.e. more than 30 years after the first SAINT-GOBAIN trademark registration, and wholly incorporates the Complainant's trademark SAINT-GOBAIN.

The doubling of the letter "T" in word "SAINT" and letter "I" in word "GOBAIN" is an obvious misspelling of the Complainant's trademark and is characteristic of a typosquatting practice intended to create confusing similarity between the Complainant's trademark and the disputed domain name. The addition of these letters therefore does not prevent the disputed domain name from being confusing similar to the Complainant's trademark.

The generic top-level domain "COM" should be disregarded in the assessment under the Policy when comparing disputed domain names and trademarks and does not change the overall impression of the designation as being connected to Complainant's trademark.

The Panel therefore considers the disputed domain name to be confusingly similar to the Complainant's trademarks SAINT-GOBAIN which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

II. Rights or Legitimate Interests

The Complainant has established a prima facie case (not challenged by the Respondent who did not file any response to the complaint) that the Respondent has no rights or legitimate interests in the disputed domain name, since the Respondent is not related in any way with the Complainant.

The disputed domain name resolves to a parking page only and, therefore, does not constitute a bona fide offering of goods and services or a legitimate noncommercial fair use. The Respondent has no rights or legitimate interests in the disputed domain name, since there is no indication that the Respondent is commonly known by the term "SAINT-GOBAIN" or its variations or that the Respondent is using the disputed domain name in connection with a bona fide offering of goods or services.

The Panel therefore considers that the Respondent has no rights or legitimate interests in respect of the disputed domain name within the meaning of paragraph 4(a)(ii) of the Policy.

III. Registered and Used in Bad Faith

Given the distinctiveness of the Complainant's trademark and reputation (as confirmed in other UDRP proceeding in the past – WIPO Case No. D2020-3555 or WIPO Case No. D2020-3546 – it is evident that the Respondent had the Complainant and its trademarks in mind when registering the disputed domain name. Furthermore, as the disputed domain name is typosquatted variant of the Complainant's trademark, such registration of the misspelled famous trademark coupled with parking page web site may be evidence of bad faith registration and use. Moreover, there are active MX records connected to the disputed domain name and the disputed domain name is or could be used for the e-mail purposes. It is difficult to imagine that the Respondent would be able to use the disputed domain name in good faith as part of an e-mail address in this case.

The Panel therefore considers that 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.

The Panel finally considers that the Complainant has shown that the disputed domain name is confusingly similar to the trademarks in which the Complainant has rights, the Respondent has no rights or legitimate interests in respect of the disputed domain name and the disputed domain name has been registered and is being used in bad faith. The Complainant has thus established all three elements of paragraph 4(a) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **saintt-gobaiin.com**: Transferred

PANELLISTS

Name	**Petr Hostaš**

DATE OF PANEL DECISION 2024-08-12

Publish the Decision