Decision for dispute CAC-UDRP-106709

Case number	CAC-UDRP-106709
Time of filing	2024-07-16 11:14:48
Domain names	sainth-gobain.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

Name	Dan Smith

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, one of them EU trademark SAINT-GOBAIN (Reg. No. 001552843) registered since March 9, 2000.

FACTUAL BACKGROUND

The Complainant, COMPAGNIE DE SAINT-GOBAIN, is a French company specialized in the production, processing and distribution of materials for the construction and industrial markets. Saint-Gobain is operating more than 350 years and is globally known for important inventions of products that improve quality of life. It is one of the top 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, one of them EU trademark SAINT-GOBAIN (Reg. No. 001552843) registered since March 9, 2000.

The Complainant also owns multiple domain names consisting in the wording “SAINT-GOBAIN”, such as the domain name <saint-gobain.com> registered on December 29, 1995.

The disputed domain name <sainth-gobain.com> was registered on June 3, 2024, and is inactive, however, MX servers are configured which shows Respondent’s intent to use this domain name in e-mail communication. The Respondent is Dan Smith from Germany.

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

The Panel agrees with the Complainant that the disputed domain name <sainth-gobain.com> is confusingly similar to the Complainant's trademark SAINT-GOBAIN. Considering the renown of the Complainant and its trademark, it becomes evident that the obvious misspelling of the Complainant’s trademark SAINT-GOBAIN (i.e. the addition of the letter “H” after letter „T“) is characteristic of a typosquatting practice intended to create confusing similarity between the Complainant’s trademark and the disputed domain name (section 1.9 of WIPO Overview 3.0 states: “A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element.”).

The Panel acknowledges that the Complainant presented prima facie evidence that the Respondent is not sponsored by or affiliated with Complainant in any way. Furthermore, Complainant has not licensed, authorized, or permitted Respondent to use Complainant’s trademark in any manner, including in domain names. The Respondent's name does not resemble the disputed domain name in any manner. Respondent’s use of the disputed domain name does not constitute a bona fide offering of goods or services or a legitimate non-commercial or fair use (Policy Para. 4(c)).

As no administratively compliant response has been provided to the Panel and the prima facie evidence was not challenged by the Respondent, the Panel concludes that the Respondent, when he registered the disputed domain name, meant nothing else except the Complainant's trademark SAINT-GOBAIN (see WIPO Overview 3.0, para. 3.1.1). Previous UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. Accordingly, the Panel finds that the disputed domain name was registered in bad faith.

The disputed domain name is inactive. From the inception of the UDRP, previous panellists 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. Having regard to the notoriety of the Complainant’s trademark, the failure of the Respondent to submit a response, the high probability of Respondent’s use of false contact details and the implausibility of any good faith use, the Panel concludes that the disputed domain name is being used in bad faith (section 3.3 of WIPO Overview 3.0).

Moreover, MX servers are configured which suggests that the disputed domain name may be actively used for e-mail purposes (see

WIPO Overview 3.0, para. 3.4). This is indicative of bad faith use because any e-mail emanating from the disputed domain name could not be used for any good faith purpose (CAC Case No. 102827, JCDECAUX SA v. Handi Hariyono).

On these bases, the Panel concludes that the Respondent has both registered and used the disputed domain name in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

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

PANELLISTS

Name	**Darius Sauliūnas**

DATE OF PANEL DECISION 2024-08-19

Publish the Decision