Decision for dispute CAC-UDRP-106831

Case number	CAC-UDRP-106831
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Domain names	saint-gobaincom.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	COMPAGNIE DE SAINT-GOBAIN

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	Hughes, Rosella

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant has adduced evidence showing that it is the owner of four international trademarks for SAINT-GOBAIN, namely:

- No. 740184 registered on 26 July 2000;

- No. 740183 registered on 26 July 2000;

- No. 596735 registered on 2 November 1992;

- No. 551682 registered on 21 July 1989.

These marks all represent the name by which the Complainant is known. Each mark has a different territorial scope internationally and there are variations between them as to the Nice Classification classes to which they extend, with two of the trademarks falling under more than twenty classes.

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

The Respondent registered the disputed domain name <saint-gobaincom.com> on 24 August 2024 according to the Registrar Verification performed by the CAC Case Administrator.

FACTUAL BACKGROUND

The Complainant, Compagnie de Saint-Gobain, is a major French and global industrial player whose group of companies serves the habitat and construction markets. It can trace its origins back to the reign of Louis XIV, when the Royal Manufactory in 1665 established production of mirror glass in the village of Saint-Gobain. Today, the Complainant has a presence in 76 countries with over 160,000 employees worldwide and a turnover in 2023 of nearly €48 billion. Its innovative, high-performance and sustainable construction solutions have become a point of reference within the construction material industry.

The Complainant adduced evidence showing that the disputed domain name <saint-gobaincom.com> resolves to a page under construction and that e-mail (MX) servers are configured for the disputed domain name with a redirection of mails in place to another domain name's servers.

For its part, the Panel's routine scrutiny of the Case File revealed an initially credible postal address in Maryland, United States, for the Respondent yet a United States telephone area code for a locality in California. It also noticed that, typographically, the contact e-mail address which the Respondent gave lacks a letter "c" in its domain name: <americanconstrutors.com>. Moreover, the user name in the e-mail address given by the Respondent seems to bear no resemblance to the Respondent's name given at registration.

Exercising its general powers in view of the results of its scrutiny, the Panel therefore investigated the Respondent's contact details further. Its investigation determined that:

- the name given for the Respondent corresponds to the same name as that of an employee of the Complainant in Pennsylvania who holds a position connected with credit analysis;

- the postal address given relates not to any private residence but to a major office complex whose enterprises include a bank; and

- WHOIS data for the typographically incorrect domain name <americanconstrutors.com> shows that its registrant is located in Reykjavik, Iceland, whereas American Constructors is a Texan firm.

As to the possible optical effect of the repetition <com.com> within the disputed domain name, the Panel consulted academic sources in the field of psychology. It determined that failure on behalf of readers in general to detect repetitions of certain kinds of words has been studied quantitatively and that proximate repetition of "function" words has been observed to induce some readers' eyes to overleap that kind of word. The following journal article presents some pertinent study results and contains onward references: Staub, A., Dodge, S., and Cohen, A.L., "Failure to detect function word repetitions and omissions in reading: Are eye movements to blame?", Psychonomic Bulletin and Review, Vol. 26 (2019) 340-346.

PARTIES CONTENTIONS

COMPLAINANT:

1. The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights:

The Complainant contends that the disputed domain name <saint-gobaincom.com> is confusingly similar to its well-known and distinctive trademark SAINT-GOBAIN, which is included in the disputed domain name in its entirety.

The Complainant asserts that addition of the generic term "com" in the disputed domain name's stem is not sufficient to escape a finding of confusingly similarity with the trademark SAINT-GOBAIN. It does not change the overall impression of the designation as being connected to the Complainant's trademark SAINT-GOBAIN or reduce the likelihood of confusion between the disputed domain name and the Complainant itself or with the Complainant's domain name. Similarly, the gTLD extension <.com> does not alter such confusing similarity of the disputed domain name.

2. The Respondent has no rights or legitimate interests in respect of the disputed domain name:

The Complainant notes that the Respondent's name is not that of the disputed domain name. Nor does the Respondent have any rights in or legitimate interest in respect of the domain name: The Respondent is not related in any way with the Complainant, carries out no activity for it, and has no business with it. Neither has the Complainant granted any licence or other authorization to the Respondent to make use of the Complainant's trademark SAINT-GOBAIN or to apply for registration of the disputed domain name on behalf of the Complainant.

The Complainant also notes that it has shown that the disputed domain name resolves to a page under construction. The Complainant contends that the Respondent did not make any use of the disputed domain name since its registration and alleges that the Respondent has no demonstrable plan to use it, implying a further lack of legitimate interest.

Therefore, the Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

3. The disputed domain name was registered and is being used in bad faith:

The disputed domain name was created in August 2024, whereas the Complainant was already extensively using its trademark SAINT-GOBAIN worldwide long before that date. The Complainant also draws attention to the fact that its trademark is well known worldwide and that it has the long-standing website <saint-gobain.com>.

In view of the strong similarity of the disputed domain name with the Complainant's trademark, the Respondent obviously knew about the Complainant's prior rights and wide use of SAINT-GOBAIN. And that is the sole reason why the Respondent registered the disputed domain name.

Moreover, the disputed domain name resolves to a page under construction.

The Complainant contends that 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.

Finally, the disputed domain name has 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.

In light of the above, the Complainant concludes that the Respondent has registered and is using the disputed domain name <saint-gobaincom.com> in bad faith.

RESPONDENT: NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown that the disputed domain name is identical or confusingly similar 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 interest 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 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).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under the UDRP were met and that there is no other reason why it would be inappropriate to provide a decision.

The Panel notes that its résumé of the Parties' contentions includes for the Complainant only its arguments pertinent to reaching a decision in this proceeding; it omits in particular several references to past ADR Panels' Decisions. The Panel equally finds it unnecessary to consider a contention based on decisions of some previous Panels regarding prima facie proof since this contention is entirely redundant in the circumstances of this proceeding.

PRINCIPAL REASONS FOR THE DECISION

The facts of this case provide clear evidence of cybersquatting by fact of the Respondent:

- incorporating, identically, the entirety of the Complainant's trademark SAINT-GOBAIN (i.e. including the hyphen); and

- merely adding after <saint-gobain> in the disputed domain name's stem without any other additional character a replicate of <com> from the disputed domain name's <.com> TLD extension.

Within the terms of the UDRP, the Panel finds that the disputed domain name's design as just explained is confusingly similar to the Complainant's trademark, so fulfilling the first part of the UDRP's three-part cumulative test.

As to the second part of the cumulative test, lack of the Respondent’s rights or a legitimate interest in the disputed domain name, the Panel finds the following based on the evidence adduced and declarations made by the Complainant as well as from its own investigations:

- There is no relation between the Respondent and the Complainant;

- The Respondent provided false contact details when registering the disputed domain name and is certainly not known by the disputed domain name;

- Bearing these factors in mind, the character string formed from "com.com" in the disputed domain name seems explicable only as an optical trick (as does the Respondent's contact e-mail address) that is calculated by the Respondent to mislead internet users psychologically, in practice probably in conjunction with the Respondent's false contact details so as to perpetrate some form of scam by impersonating the Complainant.

These circumstances leave no room for any right or legitimate interest, meaning that the second part of the UDRP test is met.

As to the third element, of bad faith registration and use, enough has already been said to find that the Respondent’s registration of the disputed domain name was an egregious act of bad faith. It was indeed also clearly invalid under the Rules since the contact details given were inaccurate. And there is evidence in this case that the disputed domain name is most probably being used, or prepared, for phishing through the e-mail facilities associated with it. The continued existence of the disputed domain name in the Respondent's hands thereby constitutes a present risk of deception of internet users and loss to them, as well as of abuse of the Complainant's protected brand and reputation. Indeed, affording protection against just this kind of practice is a key function of the UDRP.

The Panel therefore finds that the third and final part of the UDRP test is satisfied.

In light of the foregoing, the Panel ORDERS transfer of the disputed domain name to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **saint-gobaincom.com**: Transferred

PANELLISTS

Name	**Kevin Madders**

DATE OF PANEL DECISION 2024-10-13

Publish the Decision