Decision for dispute CAC-UDRP-106918

Case number	CAC-UDRP-106918
Time of filing	2024-10-04 09:41:04
Domain names	saintgobain.group

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	LilX POSTY, LLC

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 for SAINT-GOBAIN, inter alia the European Union Trademark SAINT-GOBAIN 001552843 registered since March 9, 2000 in several classes, being in effect.

FACTUAL BACKGROUND

The Complainant is a French company specialized in the production, processing and distribution of materials for the construction and industrial markets. The complainant is in accordance with its website present in 76 countries with more than 160,000 employees, and belongs to the oldest companies in the world.

The disputed domain name was registered on October 2, 2024 and resolves to a parking page.

PARTIES CONTENTIONS

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain

name.

The Complainant, inter alia, contends that the TLD „.GROUP“ does not change the overall impression of the domain name. The Complainant further contends that the Respondent is not affiliated with nor has any business with the Respondent. Complainant finally contends that the Respondent has, in view of the Complainant widely known registered and used the domain name with full knowledge of the Complainant's trademark.

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

A. Identical or Confusingly Similar

The Complainant has established the fact that it has valid trademark rights for „SAINT-GOBAIN“ in several countries.

The disputed domain name is confusingly similar to the distinctive SAINT-GOBAIN marks of the Complainant since neither the addition of a hyphen nor the TLD .group does prevent a finding of a sufficient confusing similarity.

The Panel therefore considers the domain name to be confusingly similar to the trademark „SAINT-GOBAIN“, in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Respondent has no rights in the disputed domain name since the Respondent is not a licensee of the Complainant nor has the Complainant granted any permission or consent to the Respondent to use its trademarks. Furthermore, the Respondent has no legitimate interest in the domain name since there is no indication that the Respondent is commonly known by the name “SAINTGOBAIN” nor that the Respondent is using the domain name in connection with a bona fide offering of related goods or services.

The Panel therefore finds that the respondent does not have rights or legitimate interests in the domain name.

C. Registered and Used in Bad Faith

The Panel is satisfied, with other panels before, as in WIPO CASE D2020-3549 (Compagnie de Saint-Gobain v. On behalf of saint-gobain-recherche.net owner, Whois Privacy Service / Grigore PODAC), that the Complainant is a well-established company which operates since decades worldwide under the trademark SAINT-GOBAIN which is a strong indication that the Respondent must have been aware of the Complainant and its trademarks when registering the disputed domain name. The Complainant has not authorized the Respondent to make use of a designation which is identical to its marks. This Panel does not see any conceivable legitimate use that could be made by the Respondent of this particular domain name without the Complainant's authorization.

Although the disputed domain name is only connected to a parking page, the consensus view amongst panellists since the decision Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003, <telstra.org> is that "the apparent lack of so-called active use (e.g., to resolve to a website) of the domain name without any active attempt to sell or to contact the trade mark holder (passive holding), does not as such prevent a finding of bad faith. The Panel must examine all the circumstances of the case to determine whether the respondent is acting in bad faith. Examples of what may be cumulative circumstances found to be indicative of bad faith include that no response to the complaint is filed and the degree of distinctiveness of the complainant's mark. In the present case, the Panel is convinced that such circumstances are given. Accordingly, the present circumstances do not prevent a finding of bad faith under the Policy.

The circumstances of this case indicate that the Respondent registered and uses the disputed domain name primarily with the intention of attempting to attract, for commercial gain, Internet users to its potential website or other online locations, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of such website or location, or of a product or service on such website or location. The Panel therefore considers the disputed domain name to have been registered and used in bad faith in accordance with paragraph 4(a)(iii) of the Policy.

The Panel therefore considers the domain name to have been registered and used in bad faith in accordance with 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.group**: Transferred

PANELLISTS

Name	**Dietrich Beier**

DATE OF PANEL DECISION 2024-11-11

Publish the Decision