Decision for dispute CAC-UDRP-107036

Case number	CAC-UDRP-107036
Time of filing	2024-11-06 09:46:59
Domain names	saintgobainpsivalue.com, saintgobainuvalue.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	COMPAGNIE DE SAINT-GOBAIN

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	Michael McKiernan

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 names.

IDENTIFICATION OF RIGHTS

The Complainant is inter alia the owner of the international trademark registration no. 740183 "SAINT-GOBAIN", registered on July 26, 2000 (hereinafter referred to as the "Trademark").

FACTUAL BACKGROUND

The Complainant is a French company specializing in the production, processing, and distribution of materials for the construction and industrial markets. The Complainant was founded in 1665 and is today a leading industrial group in the world with around 47.9 billion euros in turnover in 2023 and 160,000 employees. Information about the Complainant's products and services is available online at <saint-gobain.com>.

The disputed domain names were registered on October 22, 2024. The disputed domain name <saintgobainpsivalue.com> is currently being used for a website containing advertising links, which are provided by the Registrar. The disputed domain name <saintgobainuvalue.com> is used in connection with a website on which the domain name is mentioned.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant claims that the disputed domain names are confusingly similar to the Trademark. The addition of the terms "PSI VALUE" and "U VALUE", respectively, both of which refer to thermal measures in building materials, in which the Complainant specializes, is not sufficient to distinguish the disputed domain names from the Trademark.

The Complainant further submits that the Respondent lacks rights or legitimate interests in the disputed domain names. The Complainant points out that the Respondent is not identified in the Whois as the disputed domain names, that the Respondent has no rights or legitimate interests in respect of the disputed domain names and he is not related in any way with the Complainant, that neither license nor authorization has been granted to the Respondent to make any use of the Trademark, or apply for registration of the disputed domain names by the Complainant, and that use of the domain name <saintgobainpsivalue.com> in connection with a parking page containing commercial links does not constitute a bona fide offering of goods or services or a legitimate non-commercial or fair use.

Finally, the Complainant alleges that the disputed domain names were registered and are being used in bad faith. The Complainant argues that the Trademark is widely known, as already confirmed by previous panels under the UDRP, and that the addition of the terms "PSI VALUE" and "U VALUE" refer to the Complainant's activities. With respect to bad faith use, the Complainant states that the disputed domain name <saintgobainpsivalue.com> resolves to a parking page with commercial links and that the Respondent has attempted to attract Internet users for commercial gain to his own website thanks to the Complainant's trademarks for its own commercial gain. With regard to the domain name <saintgobainuvalue.com>, the Complainant argues that the Respondent has not demonstrated any activity in relation to this disputed domain name and 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.

RESPONDENT:

No administratively compliant Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names are 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 names (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 names have been registered and are 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

Under paragraph 4(a) of the Policy, the Complainant must prove that each of the following three elements is present:

(i) the disputed domain names are identical or confusingly similar to the Complainant's trademark; and

(ii) the Respondent has no rights or legitimate interests in respect of the disputed domain names; and

(iii) the disputed domain names have been registered and are being used in bad faith.

1. The Panel acknowledges that the disputed domain names are indeed confusingly similar to the Trademark because they fully incorporate the well-known Trademark. It is established that a domain name that entirely incorporates a trademark may still be considered confusingly similar to that trademark under the Policy, even when supplemented with generic terms like "PSI VALUE" and "U VALUE." Moreover, given that these terms relate to the Complainant's activities, the addition of these terms actually increases the likelihood of confusion.

2. The Complainant has substantiated that the Respondent has no rights or legitimate interests in the disputed domain names. The Panel finds that the Complainant has fulfilled its obligations under paragraph 4(a)(ii) of the Policy. The Respondent has not contested these assertions in any manner and, therefore, has failed to demonstrate any rights or legitimate interests in the disputed domain names. Based on the evidence before the Panel, the Panel cannot find any rights or legitimate interests of the Respondent either, as the disputed domain names are not generic and the Respondent's use of the disputed domain names does not indicate the existence of any rights or legitimate interests of its own.

3. The Panel is also satisfied that the Respondent registered the disputed domain names with full knowledge of the Complainant and its rights in the Trademark as the Trademark is distinctive to a very high degree and has been used by a multinational corporation for centuries. Furthermore, the disputed domain names clearly target the Complainant's business.

Regarding bad faith use, by utilizing the disputed domain name <saintgobainpsivalue.com> for a landing page featuring advertising links promoting third-party products and services, the Respondent was, in all likelihood, trying to divert traffic intended for the Complainant's website to its own for commercial gain as set out under paragraph 4(b)(iv) of the Policy. It is well-established that a respondent, as the registered owner of the domain name, bears ultimate responsibility for the information available on the website and all content posted there, regardless of its origin or the parties profiting from its commercial use. With respect to the disputed domain name <saintgobainuvalue.com>, the Panel finds that the Respondent has engaged in a pattern of registering these disputed domain names to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, as set forth in paragraph 4(b)(ii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **saintgobainpsivalue.com**: Transferred
2. **saintgobainuvalue.com**: Transferred

PANELLISTS

Name	**Peter Müller**

DATE OF PANEL DECISION 2024-11-28

Publish the Decision