Decision for dispute CAC-UDRP-106985

Case number	CAC-UDRP-106985
Time of filing	2024-10-22 14:34:24
Domain names	saintgobaln.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	Hmsfmg

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 has demonstrated ownership of rights in the trademark SAINT-GOBAIN for the purposes of standing to file a UDRP complaint.

The Complainant is the owner of trademark registrations for SAINT-GOBAIN, including the following:

- International trademark registration No. 740184 for SAINT-GOBAIN (figurative mark), registered on July 26, 2000, in classes 1, 2, 3, 6, 7, 8, 9, 10, 11, 12, 17, 19, 20, 21, 22, 23, 24, 37, 38, 40 and 42;

- International trademark registration No. 740183 for SAINT-GOBAIN (word mark), registered on July 26, 2000, in classes 1, 2, 3, 6, 7, 8, 9, 10, 11, 12, 17, 19, 20, 21, 22, 23, 24, 37, 38, 40 and 42;

- International trademark registration No. 596735 for SAINT-GOBAIN (figurative mark), registered on November 2, 1992, in classes 1, 6, 9, 11, 12, 16, 17, 19, 20, 21, 22, 23 and 24;

- International trademark registration No. 551682 for SAIN-GOBAIN (figurative mark), registered on July 21, 1989, in classes 1, 6, 7, 9, 11, 12, 16, 17, 19, 20, 21, 22, 23, 24, 37, 39 and 41.

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 the owner of the domain name <saint-gobain.com>, registered on December 29, 1995 and used in connection with the Complainant's principal website.

The disputed domain name <saintgobaln.com> was registered on October 17, 2024, and resolves to a parking page with commercial links.

PARTIES CONTENTIONS

COMPLAINANT

The Complainant contends that the disputed domain name <saintgobaln.com> is confusingly similar to its trademark SAINT-GOBAIN and submits that this is a clear case of typosquatting, since the disputed domain name contains an obvious misspelling of the Complainant's trademark, the second letter "i" in the trademark being replaced with the letter "l".

The Complainant also asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name because: i) based on the Whois information of the disputed domain name, the Respondent is not known as the name encompassed in the disputed domain name; ii) the Respondent is not related in any way to the Complainant nor does it carry out any activity for, or any business with, the Complainant; iii) the Respondent has not been authorized by the Complainant to use the Complainant's trademark or register and use the disputed domain name; iv) the disputed domain name amounts to a typosquatted version of the trademark SAINT-GOBAIN; v) the use of the disputed domain name in connection with a parking page with commercial links does not amount to a bona fide offering of goods or services or legitimate non-commercial or fair use.

The Complainant claims that the Respondent registered the disputed domain name in bad faith because, given the well-known character of the trademark SAINT-GOBAIN and considering the Complainant had already been extensively using its trademark well before the Respondent registered the disputed domain name and that the Respondent chose to register the disputed domain name using a typosquatted version of the Complainant's well-known mark, the Respondent was well aware of the Complainant's trademark rights at the time of the registration of the disputed domain name.

As to the use of the disputed domain name in connection with a parking page with commercial links, the Complainant submits that the Respondent has attempted to attract Internet users to its website for its own commercial gain.

The Complainant further states that the disputed domain name has been set up with MX records which suggests that the Respondent may be actively using the disputed domain name for email purposes and submits that this is also indicative of bad faith registration and use because any email emanating from the disputed domain name could not be used for any good faith purpose.

RESPONDENT

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

1. The Complainant has provided evidence of ownership of valid trademark registrations for SAINT-GOBAIN.

The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark SAINT-GOBAIN as it reproduces the trademark in its entirety with the mere omission of a hyphen and the substitution of the second letter "i" in the trademark with the letter "l", which are not sufficient to prevent a finding of confusing similarity.

As to the gTLDs ".com", as established in a number of prior UDRP cases, it is viewed as a standard registration requirement and as such can be disregarded for the purpose of assessing identity or confusing similarity under paragraph 4(a)(i) of the Policy.

2. With reference to the Respondent's rights or legitimate interests in the disputed domain name, the Panel finds that the Complainant has made a prima facie case and that the Respondent, by not submitting a Response, has failed to provide any element from which a Respondent's right or legitimate interest in the disputed domain names could be inferred.

The Panel notes that, based on the records, the Complainant has not authorized the Respondent to use its trademark SAINT-GOBAIN or to register and use the disputed domain name. Moreover, there is no evidence that the Respondent might be commonly known by the disputed domain name or a name corresponding to the disputed domain name.

As highlighted above, the disputed domain name has been pointed to a parking page with commercial links. The Panel finds that that such use of the disputed domain name does not amount to a bona fide offering of goods or services or a legitimate noncommercial or fair use.

Therefore, the Panel finds that the Complainant has demonstrated that the Respondent has no rights or legitimate interests in respect of the disputed domain name according to paragraph 4(a)(i) of the Policy.

3. As to bad faith at the time of the registration, the Panel finds that, in light of the Complainant's prior registration and use of the trademark SAINT-GOBAIN and considering the well-known character of the trademark, the Respondent must have been aware of the Complainant's trademark when it registered the disputed domain name in October 2024.

In view of the composition of the disputed domain name, which consists of a misspelling of the Complainant's trademark SAINT-GOBAIN and is very similar to the Complainant's domain name <saint-gobain.com>, and considering the redirection of the disputed domain name to a pay-per-click page with commercial links, the Panel finds that, on balance of probabilities, the Respondent intentionally attempted to attract internet users to its website for commercial gain, by creating a likelihood of confusion as to the source, sponsorship, affiliation or endorsement of the website, according to paragraph 4(b)(iv) of the Policy.

Moreover, the fact that MX records are also configured for the disputed domain name suggests that the Respondent may have used, or intends to use, the disputed domain name for e-mail communication purposes. considering that the recipients of possible e-mail communications coming from addresses based on the disputed domain name would be very likely misled as to the source or approval of such communications, the Panel finds that this circumstance further demonstrates the Respondent's bad faith.

Therefore, the Panel finds that the Complainant has also demonstrated that Respondent registered and is using the disputed domain name in bad faith according to 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. **saintgobaln.com**: Transferred

PANELLISTS

Name	**Luca Barbero**

DATE OF PANEL DECISION 2024-12-03

Publish the Decision