Decision for dispute CAC-UDRP-107104

Case number	CAC-UDRP-107104
Time of filing	2024-11-27 13:33:04
Domain names	saint-goblan.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	COMPAGNIE DE SAINT-GOBAIN

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	Ralph Willkens

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 owns multiple registered trademarks for the mark SAINT-GOBAIN, including:

International Registered Trademark Number 740184 for the figurative mark SAINT-GOBAIN, 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, designated in respect of over 15 territories;

International Registered Trademark Number 740183 for the figurative mark SAINT-GOBAIN, 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, designated in respect of over 70 territories;

International Registered Trademark Number 596735 for the figurative mark SAINT-GOBAIN, registered on November 2, 1992 in Classes 1, 6, 9, 11, 12, 16, 17, 19, 20, 21, 22, 23, and 24 designated in respect of one territory; and

International Registered Trademark Number 551682 for the figurative mark SAINT-GOBAIN, 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, designated in respect of over 30 territories.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Complainant is a French company, present in 76 countries, which specializes in the production, processing and distribution of materials for construction and industrial markets. The Complainant has a complement of 160,000 employees, and reported turnover of EUR 47.9 billion in 2023.

The Complainant is the owner of registered trademarks for the mark SAINT-GOBAIN, including those noted in the Identification of Rights section above. The Complainant is also the owner, among others, of the domain name <saint-gobain.com>, registered since December 29, 1995.

According to the corresponding WhoIs record, the disputed domain name was registered on November 6, 2024. The website associated with the disputed domain name consists of a parking page featuring commercial links. The disputed domain name has also been used for e-mail purposes in a phishing scheme between about November 6, 2024 and November 18, 2024 to pass off the Respondent (or another person using the disputed domain name) as one of the Complainant's employees in order to obtain or intercept payments from the Complainant's clients. The Respondent appears to be a private individual with an address in the United States of America.

PARTIES CONTENTIONS

Complainant:

The disputed domain name is confusingly similar to the Complainant's SAINT-GOBAIN trademark. The addition of the letter "l" and deletion of the letter "i" is insufficient to escape such a finding. This is a clear case of typosquatting in that the disputed domain name contains an obvious misspelling of such trademark, and it is well established that slight spelling variations do not prevent a disputed domain name from being confusingly similar to the trademark concerned. The addition of ".com" in the disputed domain name may be disregarded for comparison purposes.

The Respondent is not identified in the WhoIs database as the disputed domain name. Previous panels under the Policy have held that a respondent is not commonly known by a domain name if the WhoIs information is not similar thereto. The Respondent is not related in any way with the Complainant, and the Complainant does not carry out any activity for, nor has any business with the Respondent, nor has it granted any license or authorization to the Respondent to use the Complainant's said trademark, or to apply for registration of the disputed domain name. The disputed domain name is a typosquatted version of the Complainant's said trademark, which can be evidence that a respondent lacks rights and legitimate interests in the domain name concerned. The disputed domain name also resolves to a parking page with commercial links, and has been used in a phishing scheme to pass off a person as one of the Complainant's employees in order to obtain or intercept payment from the Complainant's clients. This is not a bona fide offering of goods or services or a noncommercial or fair use in terms of the Policy.

The disputed domain name was recently created and the Complainant has extensively used its SAINT-GOBAIN trademark worldwide before then. The Complainant's trademark is well-known, as affirmed by previous panels under the Policy, and it also has a longstanding website under the domain name <saint-gobain.com>. The misspelling of the Complainant's trademark in the disputed domain name was intentionally designed to be confusingly similar thereto, and previous panels under the Policy have seen such actions as evidence of bad faith. The disputed domain name has also been used in a phishing attempt to try to pass off a person as an employee of the Complainant. The Respondent could not therefore have been unaware of the Complainant at the time when it registered the disputed domain name, and it is reasonable to infer that the Respondent has registered the disputed domain name in full knowledge of the Complainant's trademark due to the distinctiveness of such mark and its reputation. It is well established in terms of Policy jurisprudence that using a domain name for phishing or other fraudulent activity constitutes evidence of bad faith use.

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

The Complainant has demonstrated to the Panel's satisfaction that it has UDRP-relevant rights in its SAINT-GOBAIN trademark by virtue of the international registered trademarks listed above. The said marks are figurative in nature, but the textual element of each, being SAINT-GOBAIN, is readily severable from the graphical element (on this topic, see the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), section 1.10).

The Second-Level Domain of the disputed domain name is a typographical variant of a such mark were where the letter "l" has been inserted and the letter "i" omitted from the said textual element in the Complainant's SAINT-GOBAIN mark.

Notwithstanding the spelling variation, the Panel considers that the Complainant's mark is fully recognizable in the disputed domain name based upon a straightforward side-by-side comparison. The generic Top-Level Domain in respect of the disputed domain name, namely ".com", is typically disregarded for the purposes of the comparison under the first element analysis of the Policy. In these circumstances, the Panel finds that the disputed domain name is confusingly similar to the Complainant's SAINT-GOBAIN trademark.

With regard to the second element of the Policy, the Complainant asserts that it has no relationship with the Respondent and has not licensed or otherwise authorized it to use the SAINT-GOBAIN trademark in the disputed domain name. No credible evidence has been produced by the Respondent, or is otherwise available, including in the corresponding WhoIs record, indicating that the Respondent is commonly known by the disputed domain name. The Panel finds that the disputed domain name amounts to a typographical variant of the Complainant's SAINT-GOBAIN mark, which seems to be designed to appear like the domain name of the Complainant's principal website, <saint-gobain.com>, which itself corresponds to the Complainant's SAINT-GOBAIN mark.

The Panel finds that the Complainant's various contentions, taken together, are sufficient to constitute the requisite prima facie case that the Respondent has no rights and legitimate interests in the disputed domain name (see, for example, WIPO Overview 3.0, section 2.1). In particular, the Panel accepts that the disputed domain name is more probably than not a typosquatted or intentionally registered typographical variant of the Complainant's trademark, which is intended to take unfair advantage of Internet users' errors in misperceiving the disputed domain name as the Complainant's mark and the Complainant's primary domain name.

The Panel finds on the balance of probabilities that the disputed domain name has been registered and is being used for the purposes of typosquatting, and for phishing, in light of the e-mail correspondence produced between a person using the disputed domain name for its e-mail address, and one of the Complainant's clients. Ultimately, the disputed domain name has been used for confusing the public into believing that it is associated with the Complainant when it is not. This cannot confer rights and legitimate interests upon the Respondent.

The Respondent has not replied to the Complainant's allegations and evidence in this case, and has failed to set out any alleged rights or legitimate interests which it might have claimed in the disputed domain name. There are no submissions or evidence on the record which might serve to rebut the Complainant's prima facie case. Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

As noted in the consideration of the rights and legitimate interests topic, the disputed domain name appears to the Panel to be an intentionally designed typosquatting variant of the Complainant's SAINT-GOBAIN mark. The evidence before the Panel shows that the Complainant's mark is of a longstanding nature, significantly pre-dating the date of registration of the disputed domain name, and is well-known. Said mark is in widespread use worldwide, not least in connection with the Complainant's primary domain name. The disputed domain name uses the spelling variant of said SAINT-GOBAIN mark in a manner which is clearly intended to imitate the Complainant's said domain name. The disputed domain name has been used subsequently for e-mail in a phishing scheme, in which the sender of the e-mail has passed itself off as an employee of the Complainant. In these circumstances, it is entirely reasonable to infer that the disputed domain name was registered by the Respondent with knowledge of the Complainant and its rights, and with an intent to target these unfairly and illegally. Consequently, there appears to the Panel to be no possible good faith reason for the Respondent to have selected the disputed domain name, and there are demonstrable indications of bad faith present in this case.

In all of these circumstances, the Panel considers that the Complainant has made out a sufficient case of registration and use in bad faith. The Respondent has not filed a Response in this case and therefore has not addressed the Complainant's assertions of bad faith registration and use to any extent. No explanation has been presented by the Respondent that might have suggested that its actions regarding the disputed domain name were in good faith.

The Panel therefore finds that the disputed domain name has been registered and is being used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

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

PANELLISTS

Name	**Andrew Lothian**

DATE OF PANEL DECISION 2024-12-20

Publish the Decision