Decision for dispute CAC-UDRP-107096

Case number	CAC-UDRP-107096
Time of filing	2024-11-26 12:56:34
Domain names	saint-gobaim.cam

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	moneygangltd

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 SAINT-GOBAIN trademarks, registered worldwide including:

- European trademark SAINT-GOBAIN no. 001552843 registered since 9 March 2000;
- International trademark SAINT-GOBAIN no. 740184 registered on 26 July 2000;
- International trademark SAINT-GOBAIN no. 740183 registered on 26 July 26 2000;
- International trademark SAINT-GOBAIN no. 596735 registered on 2 November 1992;
- International trademark SAINT-GOBAIN no. 551682 registered on 21 July 1989.

The Complainant also owns a portfolio of domain names comprising its SAINTGOBAIN trademarks, such as the domain name <saint-gobain.com> registered since 29 December 1995.

SAINT-GOBAIN is also commonly used to designate the company name of the Complainant.

FACTUAL BACKGROUND

The Complainant is a French company specialized in the production, processing and distribution of materials for the construction and industrial markets.

SAINT-GOBAIN is a worldwide reference in sustainable habitat and construction markets. It takes a long-term view in order to develop products and services for its customers that facilitate sustainable construction. In this way, it designs innovative, high-performance solutions that improves habitat and everyday life.

The Respondent appears to be an individual based in Lagos, Nigeria.

The disputed domain name was registered by the Respondent on 20 November 2024.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.

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).

The Complainant states that the disputed domain name is confusingly similar to its trademark SAINT-GOBAIN. By virtue of its trademark registrations, Complainant has proved that it has rights in the mark under paragraph 4(a) of the Policy. See Avast Software s. r. o. v Milen Radumilo, 102384, (CAC 2019-03-12).

The Complainant also claims that it is a clear case of cybersquatting which the disputed domain name contains an obvious misspelling of the SAINT-GOBAIN mark. In particular, the letter N was replaced by the letter M.

Furthermore, the Complainant contends that the addition of the suffix ".CAM" does not change the overall impression of the designation as being connected to Complainant's trademark. It does not prevent the likelihood of confusion between the disputed domain name and Complainant, its trademark and its domain names associated.

- Complainant's trademark: SAINT-GOBAIN
- Complainant's primary domain name: <saint-gobain.com> (SAINT-GOBAIN.COM)
- The disputed domain name: <saint-gobaim.cam> (SAINT-GOBAIM.CAM)

By doing side-by-side comparisons, the Panel accepts that typosquatting is very difficult to be spotted by Internet users and do not alter the overall impression of the designation as being connected to the Complainant and its trademark. See Intesa Sanpaolo S.p.A. v. carlos daniel dos santos, 103116 (CAC 2020-07-23) ("The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name. This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name."). The Panel is also of the view that the ".cam" generic top-level domain ("gTLD") is confusingly similar to the ".com" gTLD of Complainant's primary domain name which further enhanced the similarity. See Zions Bancorporation v. Mohammed Akik Miah, D2014-0269 (WIPO Apr. 12, 2014) ("In some instances, the TLD suffix may impact the analysis under the first element of the Policy. For example, if the trade mark in question was "Hills Holdings" and the disputed domain name was "hills.holdings", then consideration of the TLD suffix may be relevant insofar as such (hypothetical) mark "spans the dot", that is, viewed together, the second- and top-level portions of the disputed domain name are identical (or confusingly similar) to the mark").

For the foregoing reasons, the Panel finds the Complainant has satisfied 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). More specifically, the Complainant must first make a prima facie case that the Respondent lacks rights and legitimate interests in the disputed domain name, and the burden of prove then shifts to the Respondent to show it does have rights or legitimate interests. See PepsiCo, Inc. v Smith power production, 102378, (CAC 2019-03-08) ("The Panel finds that the Complainant has made out a prima facie case that arises from the considerations above. All of these matters go to make out the prima facie case against the Respondent. As the Respondent has not filed a Response or attempted by any other means to rebut the prima facie case against it, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.").

The Complainant claims that Respondent is not identified in the Whois database as the disputed domain name and is not known as the disputed domain name. Neither license nor authorization has been granted to the Respondent to make any use of the Complainant's SAINT-GOBAIN trademarks, or apply for registration of the disputed domain name by the Complainant.

In addition, the Complainant also claims that the disputed domain name is a typosquatted version of the trademark SAINT-GOBAIN. Typosquatting is the practice of registering a domain name in an attempt to take advantage of Internet users' typographical errors and can be evidence that a respondent lacks rights and legitimate interests in the domain name. Furthermore, the Complainant asserts that Respondent uses the disputed domain name to pass itself off as one of the Complainant's employees to obtain undue payment from its clients.

The Panel finds that the Complainant has established a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name. The burden of proof has been shifted to the Respondent to prove that it has right or legitimate interests to the disputed domain name. However, the Respondent has not submitted a compliant response to rebut the assertions within the required period of time.

For the foregoing reasons, the Panel finds the Complainant has satisfied 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).

The Complainant reiterates that the Complainant's SAINT-GOBAIN trademark is widely known.

Furthermore, the Complainant states the misspelling of the SAINT-GOBAIN trademark was intentionally designed to be confusingly similar with the Complainant's trademark. The disputed domain name has been used in a phishing attempt by trying to pass off as the Complainant via emails. Thus, the Respondent could not have been unaware of the Complainant at the time of the registration.

Having considered to the totality of the circumstances and without receiving an administrative compliant response, the Panel is of the view that the Respondent is obviously targeting the Complainant and its SAINT-GOBAIN mark. The Panel also notes that the phishing e-mail was sent from the disputed domain name but with Complainant's logo and contact details incorporated on the signature of the e-mail. On the e-mail, the Respondent requested the recipient to make a bank transfer to a dedicated bank account which was claimed to be an account owned by a subsidiary of the Complainant. Without having a proper explanation from the Respondent, the Panel holds that the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name and is with intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue. See LendingClub Bank, National Association v. Lennys Alvarez, 105344 (CAC 2023-05-11).

For the foregoing reasons, the Panel finds the Complainant has satisfied 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

Having established all three elements required under the UDRP Policy, the Panel concludes that the disputed domain name should be transferred 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-gobaim.cam**: Transferred

PANELLISTS

Name	**Mr Paddy TAM**

DATE OF PANEL DECISION 2024-12-26