Decision for dispute CAC-UDRP-107202

Case number	CAC-UDRP-107202
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Domain names	siant-gobain.cam

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	COMPAGNIE DE SAINT-GOBAIN

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Organization	yangs LC

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 submitted evidence of the following registrations of the SAINT-GOBAIN trademark in relation to a range of products and services relating to a range of industrial materials and construction products and services:

- International trademark No. 740184 registered on July 26, 2000;

- International trademark No. 740183 registered on July 26, 2000;

- International trademark No. 596735 registered on November 2, 1992; and

- International trademark No. 551682 registered on July 21, 1989.

FACTUAL BACKGROUND

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

Founded 350 years ago, the Complainant is a French company specialized in the production, processing and distribution of materials for the construction and industrial markets. It has consistently demonstrated its ability to invent products that improve quality of life. The Complainant is now one of the top industrial groups in the world with around 47.9 billion euros in turnover in 2023 and 160,000 employees. In addition to multiple registrations having been secured for the SAINT-GOBAIN trademark, SAINT-GOBAIN is also commonly used to designate the company name of the Complainant. The Complainant also owns many domain names that include its trademark such as saint-gobain.com which was registered on December 29, 1995.

PARTIES CONTENTIONS

COMPLAINANT:

The disputed domain name was registered on December 17, 2024 and is confusingly similar to the SAINT-GOBAIN trademark as it merely reverses the letters “a” and “i” and adds the “.cam” top-level domain.

The Respondent has no rights or legitimate interests in the disputed domain name where it is not commonly known thereby and the disputed domain name resolves to an inactive index page. There are also mail exchange (MX) servers configured for the disputed domain name.

The disputed domain name was registered and is used in bad faith based on the above-mentioned resolution and configuration for MX records.

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 disputed domain name is confusingly similar to a trademark or service mark in which the Complainant has rights

Paragraph 4(a)(i) of the Policy is a standing requirement which is satisfied if the disputed domain name is identical or confusingly

similar to a trademark in which the Complainant has rights. Furthermore, it is not as extensive as the "likelihood of confusion" test for trademark infringement applied by many courts. Rather, under the Policy confusing similarity is commonly tested by comparing the Complainant's trademark and the disputed domain name in appearance, sound, meaning, and overall impression. See Administradora de Marcas RD, S. de R.L. de C.V. v. DNS Manager / Profile Group, 101341 (CAC November 28, 2016).

It has been consistently held that "[r]egistration of a mark with governmental trademark agencies is sufficient to establish rights in that mark for the purposes of Policy paragraph 4(a)(i)." Teleflex Incorporated v. Leisa Idalski, FA 1794131 (FORUM July 31, 2018). In this case, the Complainant has submitted screenshots from the World Intellectual Property Organization (WIPO) website demonstrating that it owns registrations of the SAINT-GOBAIN trademark. The Panel accepts this evidence as proof of the Complainant's asserted trademark rights.

Next, UDRP panels have consistently held that where the asserted trademark is recognizable within a disputed domain name, a minor misspelling does not prevent a finding of confusing similarity under paragraph 4(a)(i) of the Policy. The disputed domain name is a misspelling of the trademark SAINT-GOBAIN merely reversing the letters "a" and "i". The disputed domain name further adds the ".cam" gTLD which typically adds no meaning to a domain name. Lesaffre et Compagnie v. Tims Dozman, 102430 (CAC May 2, 2019) ("the top-level suffix in the domain name (i.e. the '.com') must be disregarded under the identity / confusing similarity test as it is a necessary technical requirement of registration."). Thus, the Complainant asserts that the disputed domain name is confusingly similar to the asserted trademark and will lead internet users to wrongly believe that the disputed domain name originates from or is endorsed by the Complainant. Prior panels have found confusing similarity under similar fact situations. ARCELORMITTAL v. Derreck Benoit, UDRP-105722 (CAC September 18, 2023) ("The Panel finds that the disputed domain name [arcelormittalz.com] is confusingly similar to the Complainant's trademark ARCELORMITTAL since the mere addition of the letter "Z" does not eliminate any confusing similarity.").

Accordingly, the Panel finds that the Complainant has rights to the SAINT-GOBAIN trademark and that the disputed domain name is confusingly similar to such trademark. Thus, the Complainant has satisfied paragraph 4(a)(i) of the Policy.

2. The Respondent has no rights or legitimate interests in respect of the disputed domain name

Pursuant to paragraph 4(a)(ii) of the Policy, a complainant has the burden of making a prima facie showing that the respondent has no rights or legitimate interests in a domain name. Cephalon, Inc. v. RiskIQ, Inc., 100834 (CAC September 12, 2014). Once this standard is met, the burden shifts to the respondent to demonstrate that it does have rights or legitimate interests in the domain name.

Paragraph 4(c) of the Policy offers respondents several examples of how to demonstrate their rights or legitimate interests to a domain name.

With reference to 4(c)(ii), the Complainant asserts that the Respondent is not commonly known by the disputed domain name, that "[t]he Complainant does not carry out any activity for, nor has any business with the Respondent", and that "[n]either licence nor authorization has been granted to the Respondent to make any use of the Complainant's trademark SAINT-GOBAIN, or apply for registration of the disputed domain name by the Complainant.". The Respondent has not filed a Response or made any other submission in this case and so it does not contest any of this. Further, reference may be made to the WHOIS record when considering this issue. MAJE v. enchong lin, 102382 (CAC April 14, 2019) ("panels have held that a Respondent was not commonly known by a disputed domain name if the WHOIS information was not similar to the disputed domain name."). The WHOIS record for the disputed domain name lists the Registrant's first and last names as "ygjwak1127" and "wak1127", respectively, and the Registrant Organization as "yangs LC". These names bear no resemblance to the Complainant's trademark or to the disputed domain name and the Respondent has not submitted any claim or evidence that it is known otherwise. As such, the Panel finds no evidence upon which to conclude that the Respondent is commonly known by the disputed domain name.

Next, under Paragraphs 4(c)(i) and 4(c)(iii) of the Policy the Panel considers whether the Respondent is using the disputed domain name to make a bona fide offering of goods or services or whether it is making a legitimate non-commercial or fair use of the disputed domain name. Failing to resolve a confusingly similar domain name to any web content or resolving it to a static parking page is typically not considered to be a bona fide use. See, Consorzio Vino Chianti Classico v. Fabio Baccilli, 104426 (CAC May 9, 2022) (no bona fide use found, in part, because the disputed domain name "does not resolve to an active website"). Here, the Complainant has submitted a screenshot of the website resolution for the disputed domain name which shows only a very minimal page displaying the words "Index of /" and little else. The Respondent has not offered any explanation for its use of the disputed domain name and the Panel notes the distinctiveness and global reputation of the Complainant's longstanding trademark. Considering the available evidence, it is apparent to the Panel that the Respondent is not using the disputed domain name for a

bona fide offering of goods or services or in connection with a legitimate non-commercial or fair use under Paragraphs 4(c)(i) and 4(c)(iii) of the Policy.

For all of the above-stated reasons, this Panel finds, by a preponderance of the evidence, that the Complainant has met its burden of proof and that the Respondent has not refuted this. Thus, the Panel determines that the Respondent has no rights or legitimate interests in respect to the disputed domain name under Paragraph 4(a)(ii) of the Policy.

3. The disputed domain name was registered and is being used in bad faith

Under paragraph 4(a)(iii) of the Policy, the complainant must demonstrate both that the domain name was registered and is being used in bad faith. Further guidance on that requirement is found in paragraph 4(b) of the Policy, which sets out four examples of actions by a respondent that may satisfy this burden of proof.

A threshold question is whether, at the time that it registered the disputed domain name, the Respondent was aware of the Complainant's trademarks. The registration of the Complainant's trademarks preceded the creation of the disputed domain name by many years. Further, the Complainant asserts that "Saint-Gobain is a worldwide reference in sustainable habitat and construction markets" and that the "Complainant's trademark has a well-known character worldwide and has a long-standing worldwide operating website under the <saint-gobain.com> domain name". In support of this claim, the Complainant submits a page from its own website titled "Who Are We?" in which it is stated that "Saint-Gobain is present in 76 countries with more than 160,000 employees", that the company had salesof EUR 47.9 billion in 2023, and that the company's history dates back to the year 1665 when it began the manufacture of mirror glass. Under such circumstances, the uniqueness and reputation of an asserted trademark may lead to a presumption that a disputed domain name was targeting the mark and was thus registered in bad faith. See Intesa Sanpaolo S.p.A. v. marano tu si, antonio di bartolomeo, 104690 (CAC August 8, 2022) ("UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar … to a famous or widely-known trade mark can by itself create a presumption of bad faith (paragraph 3.1.4 of the WIPO Jurisprudential Overview 3.0), and the panel accepts that the Complainant's trade mark is widely known in its field of business."). Although the trademark reputation evidence submitted in this case is rather limited, it is amplified by the Respondent's mis-spelling thereof in the disputed domain name. On balance, the Panel finds it more likely than not that the Respondent had actual knowledge of the Complainant's trademark which leads to a presumption that the disputed domain name was registered in bad faith.

Next, attention is given to the Complainant's claim that the Respondent uses the disputed domain name in bad faith. Here, the disputed domain name was created on December 17, 2024, which is long after the issuance of the Complainant's cited trademark registrations and the development of its reputation. The disputed domain name is a typosquatted version of the Complainant's well-known and distinctive mark and this, alone, has been held to be evidence of bad faith. See Chocoladefabriken Lindt & Sprüngli AG v. Louth Ecom, UDRP-106391 (CAC April 22, 2024) (the domain name liindt.com is used in bad faith where "the disputed domain name appears to be a clear case of typosquatting."). Further, the disputed domain name resolves only to a page displaying the text "Index of/" with no substantive content. It has been held in many prior UDRP decisions that non-use of a domain name for website content, will not prevent a finding of bad faith under the doctrine of passive holding. Rather "panellists will look at the totality of the circumstances in each case, including: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put." 3Shape A/S v. Michael Nadeau, 102312 (CAC March 12, 2019), citing the seminal decision in Telstra Corporation Limited v. Nuclear Marshmallows, D2000-0003 (WIPO February 18, 2000). As noted above, the Complainant has submitted some evidence of the reputation of its distinctive trademark; the Respondent has failed to submit a response or submit any evidence of good faith use; the WHOIS record for the disputed domain name does not disclose a personal name for the Respondent and lists what appears to be a non-existent postal address in Tehran, Iran yet lists the Registrant Country as "Nigeria"; and the Panel finds no plausible good faith use to which the disputed domain name may be put given its use of a typosquatted version of a well-known trademark. In this case, the Respondent's failure to resolve the disputed domain name to any substantive web page, along with the totality of the circumstances, supports the Complainant's assertion that the disputed domain name is used in bad faith.

Further, the Complaint asserts that there are Mail Exchange (MX) records associated with the disputed domain name. Such activity has been held to demonstrate bad faith use of a domain name that is confusingly similar to a complainant's trade-mark. COMPAGNIE DE SAINT-GOBAIN v. tech sili (Techsili), UDRP-106449 (CAC May 28, 2024) ("Configuration of MX records for e-mail purposes is indicative of potential fraudulent use of the disputed domain name, such as spam and phishing, and can lead to the finding of bad faith, as established by previous panels (CAC Case No. 102827 and CAC Case No. 102380)."). The Complainant asserts that the Respondent may be seeking commercial gain based on confusion with the trademark and that the existence of MX records indicates that the Respondent may be engaging in e-mail phishing or other fraudulent impersonation activities. Based on the foregoing arguments and a preponderance of the submitted evidence, the Panel finds that the existence of MX records further supports its conclusion that the disputed domain name is mostly likely being used to seek commercial gain based on a likelihood of

confusion with the Complainant’s trademark under paragraph 4(b)(iv) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **siant-gobain.cam**: Transferred

PANELLISTS

Name	**Steven Levy**

DATE OF PANEL DECISION 2025-01-14

Publish the Decision