Decision for dispute CAC-UDRP-107194

Case number	CAC-UDRP-107194
Time of filing	2024-12-19 09:47:47
Domain names	sanit-gobain.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

Name	Gils Kumbalath

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 trademarks SAINT-GOBAIN, registered worldwide, such as:

- International trademark SAINT-GOBAIN n°740184 registered on July 26, 2000;
- International trademark SAINT-GOBAIN n°740183 registered on July 26, 2000;
- International trademark SAINT-GOBAIN n°596735 registered on November 2, 1992;
- International trademark SAINT-GOBAIN n°551682 registered on July 21, 1989.

The Complainant also owns many domain names including its trademark SAINT-GOBAIN, such as the domain name <saint-gobain.com> registered on December 29, 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 improve habitat and everyday life.

For 350 years, the Complainant has consistently demonstrated its ability to invent products that improve quality of life. It 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.

The Complainant is the owner of several trademarks SAINT-GOBAIN, registered worldwide.

The Complainant also owns many domain names including its trademark SAINT-GOBAIN, such as the domain name <saint-gobain.com> registered on December 29, 1995.

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

The disputed domain name <sanit-gobain.com> was registered on December 13, 2024 and resolves to a parking page. Besides, MX servers are configured.

The Complainant contends that the disputed domain name <sanit-gobain.com> is confusingly similar to its well-known and distinctive trademark SAINT-GOBAIN.

The reversal of the letters “I” and “N” in the trademark SAINT-GOBAIN is in the view of the Complainant not sufficient to escape the finding that the disputed domain name is confusingly similar to the trademark and branded goods SAINT-GOBAIN.

This is in the view of the Complainant a clear case of typosquatting, i.e. the disputed domain name contains an obvious misspelling of the Complainant’s trademark. It is well-established that the slight spelling variations does not prevent a disputed domain name from being confusing similar to the Complainant’s trademark.

Furthermore, the Complainant contends that the addition of the gTLD “.COM” does not change the overall impression of the designation as being connected to the Complainant’s trademark. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and its domain names associated.

The Complainant asserts that the Respondent is not identified in the Whois as the disputed domain name. Past 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. Thus, the Respondent is not known as the disputed domain name.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the domain name and he is not related in any way with the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent.

Neither 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.

Besides, 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.

Finally, the Complainant states that the disputed domain name resolves to a parking page. The Complainant contends that Respondent did not make any use of disputed domain name, and it confirms that Respondent has no demonstrable plan to use the disputed domain name. It proves a lack of legitimate interests in respect of the disputed domain name except in order to create a likelihood of confusion with the Complainant and its trademark.

The Complainant states, that the disputed domain name was created recently. The Complainant was already extensively using his trademark SAINT-GOBAIN worldwide well before that date. In the view of Complainant, 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.

The disputed domain name is confusingly similar to the Complainant's well-known trademark SAINT-GOBAIN.

In view of the above evidences, the Respondent obviously in the view of Complainant knew the prior rights and wide use of SAINT-GOBAIN by the Complainant. That is the sole and only reason why he registered the litigious domain name.

Furthermore, the Complainant states the misspelling of the trademark SAINT-GOBAIN was intentionally designed to be confusingly similar with the Complainant’s trademark. Previous UDRP Panels have seen such actions as evidence of bad faith.

Besides, the disputed domain name resolves to a parking page. The Complainant contends that the Respondent has not demonstrated any activity in respect of the disputed domain name, and 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, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant’s rights under trademark law.

Finally, the disputed domain name has been set up with MX records which suggests in the view of Complainant that it may be actively used for e-mail purposes. This is also indicative of bad faith registration and use because any e-mail emanating from the

disputed domain name could not be used for any good faith purpose.

In light of the above, the Complainant concludes that the Respondent has registered and is using the disputed domain name <sanit-gobain.com> in bad faith.

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).

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, 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.

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 I was placed not before the letter N but behind the letter N. Indeed, the reversal of the letters “I” and “N” in the trademark SAINT-GOBAIN is not sufficient to escape the finding that the disputed domain name is confusingly similar to the trademark SAINT-GOBAIN.

Furthermore, the Complainant contends that the addition of the suffix “.COM” 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: <sanit-gobain.com> (SANIT-GOBAIN.COM)

By doing side-by-side comparisons, the Panel accepts that typosquatting in this case is very difficult to spot by Internet users and does not alter the overall impression of the designation as being connected to the Complainant and its trademark. For the foregoing reasons, the Panel finds the Complainant has satisfied paragraph 4(a)(i) of the Policy.

The Complainant has, to the satisfaction of the Panel, furthermore shown that the Respondent has 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.

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. 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.

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. Previous UDRP panels have seen such actions as evidence of bad faith (Forum Case No. FA 877979, Microsoft Corporation v. Domain Registration Philippines ("In addition, Respondent's misspelling of Complainant's MICROSOFT mark in the <microssoft.com> domain name indicates that Respondent is typosquatting, which is a further indication of bad faith registration and use pursuant to Policy ¶ 4(a)(iii).")

Besides, the disputed domain name resolves to a parking page. The Respondent has not demonstrated any activity in respect of the disputed domain name, and 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, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant's rights under trademark law.

Finally, the disputed domain name has been set up with MX records which suggests that it may be actively used for e-mail purposes. This is also indicative of bad faith registration and use because any e-mail emanating from the disputed domain name could not be used for any good faith purpose.

The Panel concludes that the Respondent has registered and is using the disputed domain name in bad faith.

For the foregoing reasons, the Panel finds the Complainant has satisfied 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. **sanit-gobain.com**: Transferred

PANELLISTS

Name	**Jan Schnedler**

DATE OF PANEL DECISION 2025-01-15

Publish the Decision