

## Decision for dispute CAC-UDRP-107227

Case number CAC-UDRP-107227

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Domain names saint-qolbain.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 John Persel

#### 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 submitted evidence that it is the owner of the following international trademarks "SAINT-GOBIN" (hereinafter together referred to as the "Trademarks", and each separately as a "Trademark"):

- International trademark SAINT-GOBAIN n° 740184 (figurative mark) registered on July 26, 2000, for various classes and various jurisdictions;
- International trademark SAINT-GOBAIN n° 740183 (figurative mark) registered on July 26, 2000, for various classes and various jurisdictions (including the USA);
- International trademark SAINT-GOBAIN n° 596735 (figurative mark) registered on November 2, 1992, for various classes and various jurisdictions;
- International trademark SAINT-GOBAIN n° 551682 (figurative mark) registered on July 21, 1989, for various classes and various jurisdictions.

#### FACTUAL BACKGROUND

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

The Complainant is the owner of the Trademarks mentioned above and has also provided evidence that it registered the domain name < saint-gobain.com > on 29 December 1995.

The disputed domain name was registered on 18 December 2024 and currently resolves to a parking page.

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#### PARTIES CONTENTIONS

##### COMPLAINANT'S CONTENTIONS:

The Complainant claims that the disputed domain name is confusingly similar to the Complainant's Trademarks. According to the Complainant, the substitution of the letter "G" by the letter "Q" and the addition of the letter "L" are not sufficient to escape the finding that the disputed domain name is confusingly similar to the Trademarks. Furthermore, the Complainant contends that the addition of the gTLD ".COM" does not change the overall impression of the disputed domain name as being connected to Complainant's Trademarks. The Complainant claims that this is a clear case of "typosquatting".

The Complainant further claims that the Respondent does not have any rights or legitimate interest in the disputed domain name. The Complainant asserts that the Respondent is not identified in the "Whois" as the disputed domain name. The Complainant asserts that the Respondent is not related to the Complainant. The Complainant does not carry out any activity for and has no business with the Respondent. The Complainant did not authorise the Respondent to make use of the Complainant's Trademarks or apply for registration of the disputed domain name. The Complainant claims that the disputed domain name is a "typosquatted" version of the Complainant's Trademark(s). Finally, the Complainant asserts that the disputed domain name resolves to a parking page and that Respondent did not use the disputed domain name and has no demonstrable plan to use the disputed domain name.

The Complainant claims that the disputed domain name has been registered and is being used in bad faith:

- The Complainant states that it was already extensively using its Trademarks worldwide well before the creation date of the disputed domain name.
- The Complainant claims that its Trademarks have a well-known character worldwide and that the Complainant has a long-standing worldwide operating website under the < saint-gobain.com > domain name. The Complainant refers to a prior domain name case involving the domain name < saint-gobain-recherche.net >, i.e. WIPO D2020-3549 decision of 23 February 2021, where it was decided: "The Panel is satisfied that the Complainant is a well-established company which operates since decades worldwide under the trademark SAINT-GOBAIN."
- The Complainant concludes: "In view of the above evidences, the Respondent obviously 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 that the misspelling of the Trademark was "intentionally designed to be confusingly similar with the Complainant's trademark".
- The Complainant emphasizes that 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 that "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".
- Finally, the Complainant claims that the disputed domain name has been set up with MX records, which suggests that it may be actively used for email purposes. According to the Complainant, this is 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'S CONTENTIONS: NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

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#### 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).

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#### NO RIGHTS OR LEGITIMATE INTERESTS

As regards paragraph 4(a)(ii) of the Policy, the Panel needs not consider this issue, given its conclusion below on the "bad faith" issue (Paragraph 4(a)(iii) of the Policy).

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#### BAD FAITH

The Complainant has not, 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).

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## 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.

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## PRINCIPAL REASONS FOR THE DECISION

### 1. Confusing similarity

The Complainant's Trademarks comprise the word element "SAINT-GOBAIN" along with graphical elements. The disputed domain name consists of the word element "SAINT-QOLBAIN", and the generic top-level domain (gTLD) ".com".

Regarding the comparison between the word elements of the Complainant's Trademarks ("SAINT-GOBAIN") and those of the Respondent's disputed domain name ("SAINT-QOLBAIN"), the Panel notes that these word elements are indeed similar. More precisely, the Trademarks and the disputed domain name are identical for their use of the word element "SAINT", the hyphen "-", the letter "O", and the word element "BAIN". The differences are limited to the substitution of the letter "G" in the Trademarks with the graphically similar letter "Q" in the disputed domain name, along with the addition of an "L" between the "O" and the "B" in the latter.

The Panel disregards the gTLD when assessing identity or confusing similarity.

The Panel accepts the Complainant's assertion that the disputed domain name is confusingly similar to its registered Trademarks. The Panel notes that the Respondent did not dispute this claim.

However, the Panel is not convinced that this constitutes a typical case of "typosquatting", as alleged by the Complainant. While replacing the letter "G" with a "Q" may indicate "typosquatting", the addition of the letter "L" suggests a modification that goes beyond a simple misspelling.

Nevertheless, the Panel concludes that the disputed domain name is confusingly similar to a trademark in which the Complainant holds rights within the meaning of paragraph 4(a)(i) of the Policy.

### 2. Rights or legitimate interests

As regards paragraph 4(a)(ii) of the Policy, the Panel needs not consider this issue, given its conclusion below on the "bad faith" issue (Paragraph 4(a)(iii) of the Policy).

### 3. Bad faith

As a general observation, this Panel considers that a finding of bad-faith registration or bad-faith use of a domain name should not be made lightly.

The Complainant has not substantiated its claim that its Trademarks are 'well-known' or 'famous', nor has the Complainant demonstrated any particular renown, fame or reputation. Also, the Panel has seen no evidence of the Complainant's presence, or that of its Trademarks, in the country where the Respondent is based (the United States). The Complainant has not even provided evidence that its Trademarks are in use in the United States. Instead, the Complainant has merely submitted a screenshot of its website <saint-gobain.com>, specifically from the url <<https://www.saint-gobain.com/en/group/who-are-we>>.

The Complainant also quotes from a previous decision concerning the domain name <saint-gobain-recherche.net > (WIPO Case No. D2020-3549, decided on 23 February 2021), in which the previous panel stated: "The Panel is satisfied that the Complainant is a well-established company which operates since decades worldwide under the trademark SAINT-GOBAIN." However, a prior decision in a separate case, does not exempt the Complainant from the requirement to provide concrete and compelling evidence in the present case. Merely citing a previous decision does not, in itself, constitute sufficient evidence.

It may well be that the Complainant's Trademarks are in fact 'well-known' or 'famous', but it remains the Complainant's responsibility to make such claim convincingly and to support adequate evidence for its claim.

The Complainant asserts that the misspelling of its Trademarks was "intentionally designed to be confusingly similar with the Complainant's trademark"; however, this claim is not supported by evidence.

In summary, the Panel finds that the Complainant has failed to substantiate that the Respondent had constructive or prior knowledge of the Complainant's Trademarks.

It is indeed the case that the disputed domain name resolves to a parking page. However, given that the disputed domain name was registered relatively recently (on 18 December 2024), and that the Complainant filed its complaint just three weeks later (on 7 January 2025), the Panel considers that the Respondent has had little time to activate a website or even make preparations for a

legitimate online presence.

The Complainant contends that “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”. However, in the circumstances of this case, the Panel cannot confirm this assertion.

The Complainant further argues that the disputed domain name has been set up with MX records, suggesting a potential use for e-mail purposes. According to the Complainant, this indicates bad faith registration and use, as “any email emanating from the disputed domain name could not be used for any good faith purpose”. However, based on the limited factual circumstances presented by the parties, the Panel cannot accept this claim. In the given circumstances, the mere configuration of mail exchange (“MX”) records, in itself, is insufficient to establish bad-faith registration and use of the disputed domain name.

The Panel concludes that the Complainant has not provided sufficient convincing evidence to establish the presence of any of the circumstances of paragraph 4(b) of the Policy. Also, the Complainant has not demonstrated any other circumstances indicative of bad faith at the time of registration or during the use of the disputed domain name.

The Panel emphasises that the burden of proof under the third requirement of Paragraph 4(a) of the Policy rests with the Complainant. The Panel reiterates that it is bound by Article 15 (a) of the Rules and must therefore decide the case based on the statements and evidence submitted by the parties. On the balance of probabilities, and in the absence of convincing evidence of bad faith, the Panel concludes that the Complainant has failed to establish the third element of Paragraph 4(a) of the Policy.

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FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

**Rejected**

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

1. **saint-qolbain.com**: Remaining with the Respondent

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## PANELLISTS

Name	<b>Bart Van Besien</b>
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DATE OF PANEL DECISION **2025-02-04**

**Publish the Decision**

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