Decision for dispute CAC-UDRP-107222

Case number	CAC-UDRP-107222
Time of filing	2025-01-07 10:47:11
Domain names	saint-gobain.university

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	COMPAGNIE DE SAINT-GOBAIN

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	Yeslin Contreras

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 number of registered trademarks for the SAINT-GOBAIN trademark, including the following:

- European Union trademark registration No. 001552843 for SAINT-GOBAIN, registered on December 18, 2001; and
- International trademark registration No. 740183 for SAINT-GOBAIN, registered on July 26, 2000.

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

FACTUAL BACKGROUND

The Complainant is a French company specialized in the production, processing and distribution of materials for the construction and industrial markets. The Complainant has a revenue of over EUR 47.9 billion in 2023 and approximately 160,000 employees.

The disputed domain name was registered on December 19, 2024 and at the time of filing of the Complaint, it resolved to an error page. At the time of the Decision, the disputed domain name resolves to a login page, where the username and password of the user are required. Additionally, email exchange (“MX”) records are configured on the disputed domain name.

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.

Notably, the Complainant contends that the disputed domain name is identical with its SAINT-GOBAIN trademark, and the addition of the generic Top-Level-Domain ("gTLD") ".university" does not prevent a finding of confusing similarity.

With reference to rights or legitimate interests in respect of the disputed domain name, the Complainant contends that the Respondent is not a licensee of the Complainant, that it is not affiliated with the Complainant in any way, and that the Complainant has not granted any authorization for the Respondent to make use of its SAINT-GOBAIN trademark. Furthermore, the disputed domain name resolves to an error page and the Complainant contends that the Respondent did not make any use of disputed domain name since its registration, and it confirms that the Respondent has no demonstrable plan to use the disputed domain name. It demonstrates a lack of legitimate interests in respect of the disputed domain name.

With reference to the circumstances evidencing bad faith, the Complainant states that its SAINT-GOBAIN trademark is extensively used throughout the world well before the registration date of the disputed domain name. Furthermore, previous panels have found that the Complainant's trademark is well-known and the Complainant therefore holds that the Respondent obviously knew about the prior rights and wide use of SAINT-GOBAIN trademark by the Complainant. The disputed domain name resolves to an error page and 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 disputed domain name by the Respondent that would not be illegitimate, such as 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 email emanating from the disputed domain name could not be used for any good faith purpose.

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

According to paragraph 15(a) of the Rules: "A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable." Paragraph 4(a) of the Policy stipulates that the complainant must prove each of the following:

1. that the disputed domain name registered by the respondent is identical or confusingly similar to a trademark or service mark in which the complainant has rights;

2. that the respondent has no rights or legitimate interests in respect of the disputed domain name; and
3. that the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. 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, as stipulated in section 1.7 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("WIPO Overview 3.0").

The Complainant has shown rights in respect of the SAINT-GOBAIN trademark for the purposes of the Policy (WIPO Overview 3.0, section 1.2.1).

The entirety of the Complainant's trademark is reproduced within the disputed domain name without any additional terms. Accordingly, the disputed domain name is identical to the Complainant's trademark for the purposes of the Policy (WIPO Overview 3.0, section 1.7).

In addition, it is well established that ".university", as a generic Top-Level Domain, can be disregarded in the assessment of the confusing similarity between the disputed domain name and the Complainant's trademark (WIPO Overview 3.0, section 1.11.1).

The Panel, therefore, finds that the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

In particular, the Panel notes that there appears to be no relationship between the Respondent and the Complainant and that the Respondent is not a licensee of the Complainant, nor has the Respondent otherwise obtained authorization to use the Complainant's SAINT-GOBAIN trademark. There appears to be no element from which the Panel could infer the Respondent's rights and legitimate interests in the disputed domain name, or that the Respondent might be commonly known by the disputed domain name.

Moreover, the Panel notes that the nature of the disputed domain name carries a high risk of implied affiliation since the disputed domain name is identical with the Complainant's SAINT-GOBAIN trademark. Previous UDRP panels have found that domain names identical to a complainant's trademark carry a high risk of implied affiliation (see WIPO Overview 3.0, section 2.5.1).

Having in mind the above, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of the disputed domain name in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith (WIPO Overview 3.0, section 3.2.1).

In the present case, the Panel notes that the Respondent must have been aware of the Complainant and its SAINT-GOBAIN trademark, especially having in mind the long-standing use of SAINT-GOBAIN trademark throughout the world. It is, therefore, highly unlikely that the Respondent decided to register a domain name identical to this trademark without having the Complainant in mind when doing so. It should be also borne in mind that the registration and use of SAINT-GOBAIN trademark predates the registration of the disputed domain name for decades, making it unlikely that the Respondent was not aware of the Complainant's trademark at the time of registration of the disputed domain name.

Due to the above, the Panel finds that the disputed domain name has been registered in bad faith.

The disputed domain name currently resolves to a login page, and at the time of filing of the complaint it used to resolve to an error page. Use of the disputed domain name for the login page indicates potential fraudulent activities associated with the disputed domain name where Internet users might have been tricked into leaving certain personal information (such as username and password) to the Respondent. Such behavior manifestly indicates bad faith on the Respondent's side. In that sense, panels have held that the use of a domain name for illegal activity (such as phishing and fraud) constitutes bad faith (see WIPO Overview 3.0, section 3.4).

The Panel also considers that the configuration of mail exchange records (MX records) on the disputed domain name can also contribute to the Respondent's bad faith. Previous panels have held that the configuration of such records can represent a severe risk of phishing or other fraudulent and abusive activities (see, for example, Carrefour v. WhoisGuard, Inc., WhoisGuard Protected / Robert Jurek, Katrin Kafut, Purchasing clerk, Starship Tapes & Records, WIPO Case No. D2017-2533 and Accenture Global Services Limited v. WhoisGuard Protected, WhoisGuard, Inc. / Basikta James, WIPO Case No. D2020-2955). In a situation where the disputed domain name is identical to the third-party trademark that enjoys a certain reputation within its field of business, it is indeed, rather difficult to imagine any good faith use of the mail server attached to such domain name. In the case at hand, the disputed domain name is identical to the Complainant's SAINT-GOBAIN trademark, and it is rather difficult to imagine any good faith use in which MX records attached to such a domain name could be put.

The Panel finds that the disputed domain name has been both registered and is being used in bad faith, and consequently that the Complainant has established the third element of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **saint-gobain.university**: Transferred

PANELLISTS

Name	**Stefan Bojovic**

DATE OF PANEL DECISION 2025-02-12

Publish the Decision