Decision for dispute CAC-UDRP-107575

Case number	CAC-UDRP-107575
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Domain names	saint-gobam.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	COMPAGNIE DE SAINT-GOBAIN

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Organization	Quality Delivery

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, COMPAGNIE DE SAINT-GOBAIN owns different trademarks consisting of the wording "SAINT-GOBAIN". In particular the Complainant has fully proved to be the owner of the following signs:

International trademark "SAINT-GOBAIN" (device), registration No. 740184, registered on July 26, 2000 and duly renewed;

International trademark "SAINT-GOBAIN" (word), registration No. 740183, registered on July 26, 2000 and duly renewed;

International trademark "SAINT-GOBAIN" (device), registration No. 596735, registered on November 2, 1992 and duly renewed;

International trademark "SAINT-GOBAIN" (device) registration No. 551682, registered on July 21, 1989 and duly renewed.

FACTUAL BACKGROUND

The Complainant, COMPAGNIE DE SAINT-GOBAIN, is a French company specialized in the production, processing and distribution of materials for the construction and industrial markets. According to the Complainant, Saint-Gobain is a worldwide reference in sustainable habitat and construction markets. The Complainant also informs that Saint-Gobain, for 350 years, has consistently demonstrated its ability to invent products that improve quality of life and it is now one of the top industrial groups in the world with

around 46.6 billion euros in turnover in 2024 and 161,000 employees.

The Complainant underlines that it is the owner of several trademarks consisting of the wording "SAINT-GOBAIN". The Complainant also states that the disputed domain name <saint-gobam.com> is confusingly similar to its trademark "SAINT-GOBAIN" because the deletion of the letter “I” and the substitution of the letter “N” by the letter “M” in the trademark SAINT-GOBAIN is not sufficient to escape the finding that the domain name is confusingly similar to the Complainant's trademark.

The domain name in dispute <saint-gobam.com> has been registered on September 11, 2024.

The Complainant asserts that the Respondent is not identified in the Whois database as the disputed domain name. Furthermore, the Complainant informs that the Respondent is not authorized to use the Complainant's trademark and that there is no affiliation between the Complainant and the Respondent. The Complainant also contends that the Respondent has no right nor legitimate interest in the disputed domain name and that the Respondent is not related in any way to the Complainant's business. The Complainant declares that it does not carry out any activity for, nor has any business with the Respondent.

The Complainant points out that, given the distinctiveness and reputation of the Complainant's trademarks, it is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademarks. The Complainant also adduces evidence showing that the disputed domain name <saint-gobam.com> resolves to an error page and that e-mail (MX) servers are configured for the disputed domain name.

PARTIES CONTENTIONS

The Complainant´s contentions are summarised above.

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

Paragraph 4(a) of the Policy provides that to obtain the transfer of the disputed domain name, the Complainant must prove that each of the following elements is present:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;

(ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and

(iii) the disputed domain name has been registered and is being used in bad faith.

1) The Complainant has established to be the owner of the trademark "SAINT-GOBAIN" at least since 1989. The Complainant's trademark is registered well before the registration of the disputed domain name (September 11, 2024). The Panel notes that the consensus view in previous UDRP panel decisions is that in determining confusing similarity under paragraph 4(a) of the Policy, the generic Top-Level Domain ("gTLD") suffix (".com" in this particular instance) should be disregarded. Therefore, the comparison has to be made between the signs SAINT-GOBAIN and SAINT-GOBAM. The only difference between the signs is the replacement of the final letters "in" in the mark by the letter "m" in the disputed domain name. The Panel notes that the signs to be compared are respectively composed of twelve and eleven characters and that the differences in relatively long signs are more difficultly detected by the consumers than differences in relatively short signs. The Panel's view is that the disputed domain name contains many recognizable aspects of the mark and, as a consequence, that the signs result to be almost identical aurally and visually notwithstanding the above mentioned replacement. Especially, according to the Panel, the substitution of the letters "in" by the similar-appearing letter "m" clearly indicates a case of typosquatting. Therefore, the Panel agrees with the Complainant that the disputed domain name represents a clear and intentional misspelling of the previous mark. This in line with previous cases very similar to the one at hand in which the disputed domain name was considered as typosquatting of "SAINT-GOBAIN" (for instance <saints-gobaln.com> in CAC Case No. 107386; <saint-goblan.com> in CAC Case No. 107104; <saint-gobaim.cam> in CAC Case No. 107096). The Complainant therefore succeeds on the first element of the Policy.

2) The Complainant provided prima facie evidence that the Respondent does not have rights or legitimate interests in respect of the disputed domain name as it is not commonly known under the disputed domain name and was never authorized to use it by the Complainant. The Respondent, in the absence of any substantial response, has not shown any facts or element to justify prior rights or legitimate interests in the disputed domain name. The Complainant therefore succeeds also on the second element of the Policy.

3) The Complainant's trademark "SAINT-GOBAIN" is distinctive and well-known in many countries. It is uncontroverted that Complainant's worldwide use and registration of the "SAINT-GOBAIN" mark largely precede the registration date of the disputed domain name. The fact that the Respondent has registered the disputed domain name that is almost identical to it clearly indicates that the Respondent had knowledge of the Complainant's trademark at the time of registration of the disputed domain name. This is clear evidence of registration of the domain name in bad faith. The Complainant has demonstrated that the disputed domain name is merely directed to an error page, and therefore it is clear that the disputed domain name is not used for any bona fide offerings since it is not connected to any active website. The fact that the Respondent effectively passively holds the disputed domain name cannot prevent a finding of use in bad faith (see Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003). The Panel wishes to stress that the disputed domain name holds no Internet content and it is connected to an error page; it means that customers searching for information on the Complainant and the Complainant's service may come to the conclusion that there are problems at the Complainant's site, that the Complainant's web information and services are no longer in active use. Such 'non-use' by the Respondent can have the same negative result on the Complainant as active use of a disputed domain name and amounts to bad faith use" (FIL Limited v. George Dyle, WIPO Case No. D2014-1418). Furthermore, the Complainant has provided evidence that the Respondent has set up "MX-records" for the disputed domain name. This entails that the Respondent can send e-mails through the e-mail address "@saint-gobam.com". The Respondent can therefore use (or may already have used) the disputed domain name to send fraudulent e-mails such as messages containing spam and/or phishing attempts that Internet users could well assume were sent by the Complainant. (See also Conféderation Nationale du Crédit Mutuel, Crédit Industriel et Commercial v. Khodor Dimassi, WIPO Case No. D2016-1980; Paris Saint-Germain Football v. MHP Private, WIPO Case No. D2019-0036). Albeit that there are no concrete examples of such use, it seems inconceivable that the Respondent will be able to make any good faith use of the disputed domain name as part of an e-mail address. The Panel finds that the mere conduct of making preparation for sending e-mails which are very likely to confuse the recipient of such e-mails as to their origin, is without justification and is inconsistent with the Complainant's exclusive rights in the "SAINT-GOBAIN" trademark (see Accenture Global Services Limited v. Registration Private, Domains by Proxy, LLC / Richa Sharma, Name Redacted, WIPO Case No. D2019-2453). As a result of the above, the Panel finds that the disputed domain name was registered and is being used in bad faith. The Complainant, therefore succeeds also on 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-gobam.com**: Transferred

PANELLISTS

Name	**Guido Maffei**

DATE OF PANEL DECISION 2025-06-10

Publish the Decision