

ADMINISTRATIVE PANEL DECISION

Compagnie de Saint-Gobain v. 吴清儒 (wu qing ru)
Case No. D2024-1066

1. The Parties

The Complainant is Compagnie de Saint-Gobain, France, represented by Nameshield, France.

The Respondent is 吴清儒 (wu qing ru), China.

2. The Domain Name and Registrar

The disputed domain name <saintgobain.xyz> is registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on March 11, 2024. On March 12, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 13, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

On March 14, 2024, the Center informed the parties in Chinese and English, that the language of the registration agreement for the disputed domain name is Chinese. On March 15, 2024, the Complainant requested English to be the language of the proceeding. The Respondent did not submit any comment on the Complainant's submission.

The Center verified that the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules").

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint in English and in Chinese, and the proceedings commenced on March 21, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 10, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 11, 2024.

The Center appointed Jonathan Agmon as the sole panelist in this matter on April 18, 2024. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a French company specializing in the production, processing and distribution of materials for the construction industry. Founded in 1665, it currently has a presence in over 76 countries, and employs over 160,000 people. In 2023, its revenue was more than 47.9 billion Euros.

The Complainant is the owner of various SAINT-GOBAIN trademarks, including the following:

- International trademark No. 551682 for SAINT-GOBAIN, registered on July 21, 1989;
- International trademark No. 596735 for SAINT-GOBAIN, registered on November 2, 1992;
- International trademark No. 740183 for SAINT-GOBAIN, registered on July 26, 2000; and
- European Union trademark No. 001552843 for SAINT-GOBAIN, registered on December 18, 2001.

The Complainant owns various domain names incorporating its SAINT-GOBAIN trademark, including <saint-gobain.com>, registered on December 29, 1995.

The disputed domain name was registered on March 6, 2024. It redirects to a Dan.com webpage where it is being offered for sale for USD 1,450.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that:

- 1) The dispute domain name is identical to the Complainant's SAINT-GOBAIN trademark in which it has rights. The disputed domain name consists of the Complainant's SAINT-GOBAIN trademark in its entirety with no additions or deletions. The addition of the New generic Top-Level Domain ("gTLD") ".xyz" does not prevent a likelihood of confusion between the disputed domain name and the SAINT-GOBAIN trademark.
- 2) The Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not commonly known by the disputed domain name. The Respondent is not affiliated with or authorized by the Complainant. The Complainant has never licensed or authorized the Respondent to make use of the Complainant's SAINT-GOBAIN trademark in any way, or to register the disputed domain name. The Complainant does not carry out any activity for, nor has any business with the Respondent. Further, the disputed domain name is being offered for sale on a Dan.com webpage for USD 1,450. This is evidence of the Respondent's lack of rights or legitimate interest in the disputed domain name.
- 3) The disputed domain name was registered and is being used in bad faith. The Complainant has been using its well-known SAINT-GOBAIN trademark for many years, well before the disputed domain name, which was only created recently. The Complainant's SAINT-GOBAIN trademark is also a well-known trademark worldwide. Further, the disputed domain name is identical to the Complainant's SAINT-GOBAIN trademark. The Respondent do not make any active use of the disputed domain name. Given the

distinctiveness of the Complainant's trademark and reputation, it is reasonable to infer that the Respondent was obviously well aware of the Complainant's prior rights and wide use of the SAINT-GOBAIN trademark, and had registered the disputed domain name with full knowledge of the Complainant's SAINT-GOBAIN trademark. The disputed domain name is also being offered for sale on a Dan.com webpage, which is further evidence of bad faith.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that:

- English is the language most widely used in international relations and is one of the working languages of the Center;
- the disputed domain name consists of Latin characters instead of Chinese script;
- to proceed in Chinese, the Complainant would have to retain specialised translation services at a cost likely to be higher than the overall cost of these proceedings; and
- the use of Chinese would therefore impose a burden on the Complainant which would be significant in view of the low cost of these proceedings.

The Respondent did not make any submissions with respect to the language of the proceeding despite being duly notified by the Center in both Chinese and English of the language of the proceeding and of the commencement of the proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

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. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name omitting the hyphen. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds 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. [WIPO Overview 3.0](#), section 2.1.

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.

There is no evidence to suggest that the Respondent is commonly known by the disputed domain name. The Complainant’s registration and use of its SAINT-GOBAIN trademark predates the registration of the disputed domain name. The disputed domain name redirects to a Dan.com webpage where it is offered for sale for USD 1,450, a price that is likely to exceed the Respondent’s likely out-of-pocket registration costs. There is no objective evidence showing that the Respondent is using or has made any preparations to use the disputed domain name in connection with a bona fide offering of goods or services or for a legitimate noncommercial or fair use purpose. The Respondent’s choice of a well-known trademark associated with the Complainant shows a clear intent to divert unsuspecting Internet users expecting to find the Complainant and instead are redirected to the Respondent’s Dan.com webpage in which the disputed domain name is offered for sale, reinforcing the notion that the Respondent’s intent was and is commercial gain.

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 a domain name in bad faith.

In the present case, the Panel notes that the Respondent registered the disputed domain name long after the Complainant registered its SAINT-GOBAIN trademark. The Respondent is offering the disputed domain name for sale on Dan.com for a price that likely far exceeds the Respondent’s out-of-pocket registration costs. This is strong evidence of bad faith under paragraph 4(b)(i) of the Policy.

Moreover, given the reputation of the Complainant's mark and its good will and the similarity between the disputed domain name and the Complainant's domain name < saint-gobain.com >, it is highly unlikely that the Respondent did not know of the Complainant and its trademark prior to the registration of the disputed domain name.

The Panel also notes that the Respondent did not submit a response to the proceedings, and that he is a recalcitrant subject of panel proceedings. Based on the record, including the similarity between the disputed domain name and the Complainant's trademark, the fact that the disputed domain name was registered for the sole purpose of being sold, and the fact that no Response was submitted by the Respondent in response to the Complaint, the Panel draws the inference that the disputed domain name was registered and is being used in bad faith.

The Panel finds that the Complainant has established the third element of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name < saintgobain.xyz > be transferred to the Complainant.

/Jonathan Agmon/
Jonathan Agmon
Sole Panelist
Date: May 2, 2024