

ADMINISTRATIVE PANEL DECISION

Compagnie de Saint-Gobain. v. Catur Febrian, SFX2COM
Case No. D2024-0100

1. The Parties

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

The Respondent is Catur Febrian, SFX2COM, Indonesia.

2. The Domain Name and Registrar

The disputed domain name <saint-gobain.xyz> is registered with Web Commerce Communications Limited dba WebNic.cc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 11, 2024. On January 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 11, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (whoisprotection.cc) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 12, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on January 12, 2024.

The Center verified that the Complaint together with the amended 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, and the proceedings commenced on January 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 5, 2024. The Respondent sent an email communication to the Center on January 19, 2024. The Respondent did not submit any formal Response. Accordingly, the Center notified the commencement of panel appointment process on February 6, 2024.

The Center appointed Roger Staub as the sole panelist in this matter on February 12, 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 specialized in the production, processing, and distribution of materials for the construction and industrial markets. According to the Complainant's website "www.saint-gobain.com", the Complainant's group has achieved a turnover of EUR 55.2 billion in 2022, has 168,000 employees, and is present in 75 countries worldwide. Its roots go back to the creation of the Manufactory of Mirror Glass in 1665.

The Complainant owns various trademark registrations consisting of, or containing, the word "Saint-Gobain" in Europe and in many other jurisdictions worldwide. The Complainant's portfolio of SAINT-GOBAIN trademark registrations includes, inter alia, the following trademark registrations:

- European Union trademark No. 001552843 SAINT-GOBAIN, registered on December 18, 2001, in Classes 1-3, 6-12, 17, 19-24, 37,38, 40, and 42;
- International trademark No. 740183 SAINT-GOBAIN, registered on July 26, 2000, in Classes 1-3, 6-12, 17, 19-24, 37,38, 40, and 42, covering the several jurisdictions including inter alia Indonesia.

Further, the Complainant has submitted evidence that it owns the domain name <saint-gobain.com>, which was registered on December 29, 1995, and directs to the Complainant's main website.

The disputed domain name was registered on December 23, 2023.

The disputed domain name resolves to a Dan.com webpage, where it is offered for sale at a price of USD 5,000.

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.

First, the Complainant contends that the disputed domain name is identical to its trademark SAINT-GOBAIN and its domain names associated. The addition of the new generic Top-Level Domain name ("gTLD") ".xyz" does not change the overall impression of the designation.

Second, the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant asserts that the Whois information about the Respondent was not similar to the disputed domain name. The Complainant contends that the Respondent is not affiliated with nor authorized by the Complainant in any way. The Complainant further contends that the Complainant does not carry out any activity for, nor has any business with the Respondent. Neither a license nor any authorization has been granted to the Respondent to make any use of the Complainant's trademark SAINT-GOBAIN. Finally, the Complainant contends that the offer to sell the disputed domain name is evidence of the Respondent's lack of rights and legitimate interests.

Third, the disputed domain name was registered and is being used in bad faith. The Complainant had already extensively been using its trademark SAINT-GOBAIN worldwide, when the disputed domain name was created. Further, the Complainant's trademark is well-known worldwide and the Complainant has a longstanding worldwide operating website under its domain name <saint-gobain.com>. The disputed domain name is identical to the Complainant's well-known trademark. Thus, it is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademark. Finally, the disputed domain name is offered for sale for USD 5,000. The Respondent fails to make any active use of the disputed domain name. The Complainant contends that the Respondent has registered the disputed domain name in order to sell it only.

B. Respondent

The Center received an email from the Respondent stating as follows: "Sorry, what can I do?". However, the Respondent did not formally reply to the Complainant's contentions.

6. Discussion and Findings

According to the Policy, to qualify for a cancellation or transfer, the Complainant must prove each of the following:

First, the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

Second, the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Third, the disputed domain name has been registered and is being used in bad faith.

Since the Respondent did not submit any formal reply, the Panel may choose to accept the reasonable contentions of the Complainant as true. This Panel will determine whether those facts constitute a violation of the Policy that is sufficient to order the transfer of the disputed domain name (see *Joseph Phelps Vineyards LLC v. NOLDC, Inc., Alternative Identity, Inc., and Kentech*, WIPO Case No. [D2006-0292](#)).

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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[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. Accordingly, the disputed domain name is identical 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.

The identical composition of the disputed domain name to the Complainant's well-known trademark carries a high risk of implied affiliation with the Complainant and thus, such composition cannot confer rights or legitimate interests on the Respondent since it effectively impersonates or suggests sponsorship on the part of the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

This finding is further supported by the fact that the disputed domain redirects to a website where the disputed domain name is offered for sale at a price likely to be far in excess of the Respondent's out-of-pocket expenses. This also suggests that the Respondent does not have any rights or legitimate interests in the disputed domain name.

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 particular, paragraph 4(b)(i) provides that circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name is one of the scenarios constituting evidence of a respondent's bad faith.

In the present case, the Panel notes that the Respondent registered the disputed domain name through a privacy shield service. Further, the Panel accepts the Complainant's contention that its mark SAINT-GOBAIN, which is entirely reproduced in the disputed domain name, is well-known. According to the Complainant's website "www.saint-gobain.com", the Complainant is active under its SAINT-GOBAIN brand also in Indonesia, where it holds trademark rights in SAINT-GOBAIN. This suggests that the Complainant's brand SAINT-GOBAIN is known in Indonesia, where the Respondent is reportedly located. The disputed domain name redirects to a website where the disputed domain name is offered for sale at a price of USD 5,000. This price likely exceeds the usual out-of-pocket costs related to the registration of a domain name. Thus, the Panel finds that the circumstances of this case indicate the Respondent's bad faith under the Policy.

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 <saint-gobain.xyz> be transferred to the Complainant.

/Roger Staub/

Roger Staub

Sole Panelist

Date: February 26, 2024