

ADMINISTRATIVE PANEL DECISION

Compagnie de Saint-Gobain v. 石磊 (Shi Lei)
Case No. D2024-0198

1. The Parties

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

The Respondent is 石磊 (Shi Lei), China.

2. The Domain Names and Registrars

The disputed domain names <saintgobainbondedabrasivediscsettlement.com> and <saintgobainbondedabrasivediscsettlment.com> are registered with Dynadot Inc.

The disputed domain names <saintgobainbondedabrasivediscssettlement.com>, <saintgobainsettlement.com> and <wwwsaintgobainbondedabrasivediscsettlement.com> are registered with Chengdu West Dimension Digital Technology Co., Ltd. (Dynadot Inc and Chengdu West Dimension Digital Technology Co., Ltd. are hereinafter collectively referred to as the “Registrars”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on January 17, 2024. On January 18, 2024, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On January 19 and January 25, 2024, the Registrars transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 29, 2024, providing the registrant and contact information disclosed by the Registrars, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint in English on January 30, 2024.

On January 29, 2024, the Center informed the parties in Chinese and English, that the language of the registration agreement for the disputed domain names <saintgobainbondedabrasivediscssettlement.com>, <saintgobainsettlement.com> and <wwwsaintgobainbondedabrasivediscsettlement.com> is Chinese. On January 30, 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 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 February 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 25, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 26, 2024.

The Center appointed Karen Fong as the sole panelist in this matter on March 7, 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, a French company started 350 years ago, specializes in the production, processing and distribution of materials for the construction and industrial markets. Its turnover in 2022 was more than EUR 51.2 billion and it has over 160,000 employees. Its products and services are marketed under the trade mark SAINT-GOBAIN. The products produced and sold by the Complainant include bonded abrasives and discs.

The Complainant owns trade mark registrations for SAINT-GOBAIN in numerous countries worldwide including under the following:

- European Union Trade Mark No. 001552843 for SAINT-GOBAIN, registered on December 18, 2001;
- International Registration (designating China) No. 740184 for SAINT-GOBAIN (stylized), registered on July 26, 2000;
- International Registration (designating China) No. 740183 for SAINT-GOBAIN, registered on July 26, 2000 (individually and collectively the "Trade Mark").

The Complainant also owns many domain names containing the Trade Mark including <saint-gobain.com> registered on December 29, 1995.

The Respondent appears to be based in China. The disputed domain names were all registered on January 10, 2024. They all resolve to pay-per-click ("PPC") webpages with commercial links to third party websites (the "Websites"). An email server has also been configured on each of the disputed domain names.

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 names.

Notably, the Complainant contends that the disputed domain names are confusingly similar to the Trade Mark, that the Respondent has no rights or legitimate interests with respect to the disputed domain names, and that the disputed domain names were registered and are being used in bad faith. The Complainant requests transfer of the disputed domain names.

B. Respondent

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

6. Discussion and Findings

6.1 Preliminary Issue: Language of the Proceeding

The language of the Registration Agreement for three of the disputed domain names 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 the following main reasons:

- The disputed domain names comprise of words in American Standard Code Information Interchange characters and not in Chinese script;
- English is the language most widely used in international relations and is one of the working languages of the Center;
- Having to translate the Complaint into Chinese would unfairly disadvantage and burden the Complainant in terms of costs and delay the proceeding and adjudication of this matter.

The Respondent has not challenged the Complainant's language request and in fact has failed to file a response in either English or Chinese.

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.

6.2 Substantive Issues

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 trade mark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the Trade Mark is reproduced within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the Trade Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of the other terms after the Trade Mark in the disputed domain names like "bonded", "abrasive", "disc", "discs", "settlement" and typographical errors of the last word – "setlment" and "settlement", may bear on assessment of the second and third elements, the Panel finds the addition of such terms do not prevent a finding of confusing similarity between the disputed domain names and the Trade Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, 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.

While 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 often impossible 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. 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 record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names. 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 names such as those enumerated in the Policy or otherwise.

Moreover, the nature of the disputed domain names is inherently misleading as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

Based on the available record, 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 must have been aware of the Trade Mark when he registered the disputed domain names given the Trade Mark was registered prior to registration of the disputed domain names and the reputation of the Trade Mark. It is therefore implausible that the Respondent was unaware of the Complainant when he registered the disputed domain names.

In the [WIPO Overview 3.0](#), section 3.2.2 states as follows:

“Noting the near instantaneous and global reach of the Internet and search engines, and particularly in circumstances where the complainant’s mark is widely known (including in its sector) or highly specific and a respondent cannot credibly claim to have been unaware of the mark (particularly in the case of domainers), panels have been prepared to infer that the respondent knew, or have found that the respondent should have known, that its registration would be identical or confusingly similar to a complainant’s mark. Further factors including the nature of the domain name, the chosen top-level domain, any use of the domain name, or any respondent pattern, may obviate a respondent’s claim not to have been aware of the complainant’s mark.”

The fact that there is a clear absence of rights or legitimate interests coupled with the Respondent’s choice of the disputed domain names without any explanation is also a significant factor to consider (as stated in [WIPO Overview 3.0](#), section 3.2.1). The disputed domain names fall into the category stated above and the Panel finds that registration is in bad faith. The addition of the terms “bonded”, “abrasive”, “disc” and “discs”, refers to the Complainant’s products, indicating that the Respondent had actual knowledge of and was targeting the Complainant.

The disputed domain names are also being used in bad faith.

The Websites are PPC sites which have been set up for the commercial benefit of the Respondent. It is highly likely that Internet users when typing the disputed domain names into their browser, or finding them through a search engine would have been looking for a site operated by the Complainant rather than the Respondent. The disputed domain names are likely to confuse Internet users trying to find the Complainant's website. Such confusion will inevitably result due to the fact that the disputed domain names comprise the Complainant's distinctive Trade Mark and terms referencing the Complainant's products.

The Respondent employs the reputation of the Trade Mark to mislead users into visiting the disputed domain names instead of the Complainant's. From the above, the Panel concludes that the Respondent intentionally attempted to attract for commercial gain, by misleading Internet users into believing that the Respondent's Websites are those of or authorised or endorsed by the Complainant.

Further, based on the available record, the Panel notes that a mail server has been configured on the disputed domain names.

Section 3.4 of [WIPO Overview 3.0](#) states as follows:

"Panels have held that the use of a domain name for purposes other than to host a website may constitute bad faith. Such purposes include sending email, phishing, identity theft, or malware distribution. (In some such cases, the respondent may host a copycat version of the complainant's website.) Many such cases involve the respondent's use of the domain name to send deceptive emails, e.g., to obtain sensitive or confidential personal information from prospective job applicants, or to solicit payment of fraudulent invoices by the complainant's actual or prospective customers."

Although there is no evidence that the Respondent has actually sent phishing or fraudulent emails so far, the presence of an email server configured to the disputed domain names is a good indicator that the disputed domain names are likely to be used to perpetuate phishing schemes and other email scams.

Considering the circumstances, the Panel considers this further supports that the disputed domain names are also being used in bad faith.

The Panel therefore finds that the disputed domain names have been registered and are being used in bad faith under paragraph 4(b)(iv) of the Policy.

Based on the available record, the Panel finds the third element of the Policy has been established.

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 names <saintgobainbondedabrasivediscsettlement.com>, <saintgobainbondedabrasivediscsettlment.com>, <saintgobainbondedabrasivediscssettlement.com>, <saintgobainsettlement.com> and <www.saintgobainbondedabrasivediscsettlement.com> be transferred to the Complainant.

/Karen Fong/

Karen Fong

Sole Panelist

Date: April 2, 2024