

## **ADMINISTRATIVE PANEL DECISION**

Compagnie De Saint-Gobain v. mandy petersen  
Case No. D2024-0604

### **1. The Parties**

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

The Respondent is mandy petersen, United States of America (“United States”).

### **2. The Domain Name and Registrar**

The disputed domain name <saint-gobians.com> is registered with GMO Internet, Inc. d/b/a Discount-Domain.com and Onamae.com (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 9, 2024. On February 9, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 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.

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, and the proceedings commenced on February 21, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 12, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 13, 2024.

The Center appointed Catherine Slater as the sole panelist in this matter on March 19, 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 company registered in France. It is a worldwide supplier of materials to the construction industry.

The Complainant is the owner of various registrations for the trade mark SAINT-GOBAIN, including for example the following:

- European Union Trade Mark 1552843 for SAINT-GOBAIN (word mark), registered on December 18, 2001;  
- International Trade Mark 740183 for SAINT-GOBAIN (figurative mark), registered on July 26, 2000, and with protection granted (fully or partially) in, inter alia, Australia, Chile, China, Egypt, Indonesia, Iran (Islamic Republic of), Israel, Kenya, Malaysia, Morocco, Russian Federation, Serbia, Singapore, Switzerland, Türkiye, Ukraine, United States, and Viet Nam.

The Complainant operates the domain name <saint-gobain.com> which was registered on December 29, 1995.

The disputed domain name was registered on January 25, 2024.

As of February 9, 2024, and according to evidence provided by the Complainant, the disputed domain name did not resolve to any active website. As of the date of this decision, the disputed domain name still did not resolve to any active website.

#### **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.

The Complainant states that it has traded for over 350 years. It submits that it currently has 168,000 employees worldwide. The Complainant demonstrates activities in Europe, the Middle East, Asia, and North America, including a research and development division in the United States. The Complainant claims worldwide turnover of EUR 51.2 billion in 2022.

The Complainant submits that its trade mark SAINT-GOBAIN is well known and distinctive.

The Complainant submits that the disputed domain name is confusingly similar to its SAINT-GOBAIN trade mark, differing from it only by the addition of the letter "s" and the reversal of "a" and "i". Further, that this misspelling of the Complainant's trade mark is characteristic of typo squatting practice and intended to create a confusing similarity between the Complainant's trade mark and the disputed domain name.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It states that it has never licensed or authorized the Respondent to use its SAINT-GOBAIN trade mark or to register the disputed domain name, that the Complainant has no business with the Respondent, and that it is not affiliated with the Respondent in any way. It further states that the Respondent has not commonly been known by the disputed domain name because the Whois information is not similar to the disputed domain name and, finally, that by resolving to an inactive page it demonstrates a lack of legitimate interests in the disputed domain name.

The Complainant submits that the disputed domain name was registered and is being used in bad faith. It contends that, owing to the distinctive nature, long history and extensive use of the SAINT-GOBAIN trade mark, there can be no doubt that the Respondent registered the disputed domain name with that trade mark in mind. Moreover, that the misspelling of the trade mark demonstrates that the disputed domain name was

intentionally designed to be confusingly similar to the trade mark. The Complainant further contends that it is not possible to conceive of any circumstances in which the Respondent could legitimately use the disputed domain name and that the use of a famous name within the disputed domain name coupled with an inactive website is evidence of bad faith. Finally, it contends that the disputed domain name has been set up with MX records which suggests that it may be actively used for email purposes.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **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 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 trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the trade mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the trade mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The disputed domain name consists of the Complainant's trade mark SAINT-GOBAIN in which the second word has been misspelt "gobian" with a letter "s" added at the end. Such misspelling falls within the practice of "typosquatting". [WIPO Overview 3.0](#), section 1.9.

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 disputed 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 disputed 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.

The Panel finds that the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. In this regard, there is no evidence that the Respondent has made preparations to use the disputed domain name in connection with a bona fide offering of goods or services, or been commonly known by the disputed domain name or is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark. The Respondent is not authorized to use the Complainant's trade mark and has no relationship with the Complainant.

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 Panel finds the second element of the Policy has been established.

### **C. Registered and Used 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.

Taking into account the reputation of the SAINT-GOBAIN trade mark and the fact that the disputed domain name is merely a misspelling of that trade mark and of the Complainant's domain name <saint-gobain.com>, it is inconceivable that the Respondent did not have the Complainant's trade mark in mind at the point of registration and it is equally inconceivable that the Respondent had any reason to register the disputed domain name other than to take advantage of, abuse, or otherwise engage in behaviour detrimental to the Complainant's trade mark. [WIPO Overview 3.0](#), section 3.1.

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement) and (iv) the implausibility of any good faith use to which the domain name may be put. [WIPO Overview 3.0](#), section 3.3.

Having reviewed the available record, the Panel notes that the Complainant's trade mark is distinctive, has a strong reputation and is widely known, that the Respondent has failed to submit a response or to provide any evidence of actual or contemplated good-faith use, that it has not been possible in these proceedings for the Center to deliver post to the Respondent which suggests that the Respondent has used a false address and in the circumstances that it is not possible to conceive of any plausible actual or contemplated active use of the disputed domain name by the Respondent that would be legitimate.

Considering these circumstances, the Panel concludes that the Respondent's passive holding of the disputed domain name in this case satisfies the requirement of paragraph 4(a)(iii) that the disputed domain name is being used in bad faith by the Respondent.

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-gobians.com> be transferred to the Complainant.

*/Catherine Slater/*

**Catherine Slater**

Sole Panelist

Date: April 2, 2024