

Decision for dispute CAC-UDRP-105964

Case number **CAC-UDRP-105964**

Time of filing **2023-11-13 10:26:59**

Domain names **saint-gobian.com**

Case administrator

Name **Olga Dvořáková (Case admin)**

Complainant

Organization **COMPAGNIE DE SAINT-GOBAIN**

Complainant representative

Organization **NAMESHIELD S.A.S.**

Respondent

Organization **yteng trading**

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant has adduced evidence showing it is the owner of four international trademarks for SAINT-GOBAIN, namely:

- No. 740184 registered on 26 July 2000;
- No. 740183 registered on 26 July 2000;
- No. 596735 registered on 2 November 1992;
- No. 551682 registered on 21 July 1989.

These marks all represent the Complainant's SAINT-GOBAIN name figuratively but have different territorial scope and variations in the Nice Classification classes to which they apply, with two of the trademarks extending to more than twenty classes.

The Complainant also adduced evidence to show it is the registrant of the domain name <saint-gobain.com>, registered on 29 December 1995.

The Respondent registered the disputed domain name <saint-gobian.com> on 21 July 2023 according to the Registrar Verification performed by the CAC Case Administrator.

FACTUAL BACKGROUND

The Complainant, Compagnie de Saint-Gobain, is a large French company specialized in the production, processing and distribution of materials, products and solutions for the construction, industry and mobility markets. It can trace its origins to the 17th century and currently has a presence in 75 countries with 168,000 employees worldwide; it had a turnover of €51.2 billion in 2022.

The Registrar Verification performed by the CAC Case Administrator shows that the Respondent, whose identity had in publicly accessible WHOIS data been redacted for privacy, is denoted as a trading entity in the UK city of Leeds. No individual's name is given.

By reading the contact details provided in the Registrar Verification, the Panel ascertained that the Respondent's postal address is in fact that of a named retail bank in Leeds. The Panel further discovered, in exercise of its general powers, that the Respondent's email address shown in the Registrar Verification is associated with a free email service employing the domain name <accountant.com> that has attracted several reports of phishing. The telephone number given is a mobile one.

The Panel reviewed screenshot evidence submitted by the Complainant of Google search results for "Saint-Gobian", i.e. as registered in the disputed domain name. The screenshot itself shows that the search engine had automatically corrected "Saint-Gobian" to "Saint-Gobain" in order to conduct the search, thereby producing results that must be excluded from consideration since they can have no probative value in this proceeding.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant contends that "SAINT-GOBAIN" is commonly used to designate the company name of the Complainant and that the disputed domain name is "inactive".

With respect to the principal elements of the UDRP cumulative three-part test, the Complainant asserts that:

(1) The disputed domain name <saint-gobian.com> is confusingly similar to its well-known and distinctive protected brand SAINT-GOBAIN. Reversal of the letters "A" and "I" in that mark is not only insufficient to escape this finding; such reversal instead shows that this case is a clear instance of typosquatting due to an obvious misspelling of the Complainant's name. Nor does addition of the gTLD <.com> extension change the overall impression of the disputed domain name's designation being connected to Complainant's protected mark.

(2) The Respondent has no rights or legitimate interests in respect of the domain name. The Respondent is not identified in the WHOIS data as the disputed domain name and is thus not known by it. Nor is the Respondent related in any way with the Complainant. Rather, the Respondent is making use of the Complainant's protected brand SAINT-GOBAIN without authorization by taking advantage of internet users' typographical errors. This itself can substantiate lack of rights and legitimate interests in the domain name. The Complainant further contends that the Respondent has not used the disputed domain name and has no demonstrable plan to use it.

(3) The domain name was registered and is being used in bad faith. Whereas the disputed domain name was created only quite recently, in July 2023, the Complainant has used its protected mark SAINT-GOBAIN worldwide from well before that date, including in its <saint-gobain.com> domain name. The Complainant is, moreover, not only a well-established company worldwide but the search term for the disputed domain name's misspelling "SAINT-GOBIAN" renders results related to the Complainant's name. All these circumstances make it obvious that the Respondent knew of the Complainant's prior rights and wide use of SAINT-GOBAIN, so making its misuse the only reason for the registration, intentionally, of its misspelt variant in the disputed domain name. Finally, the disputed domain name is inactive, and it is not possible to conceive of any plausible actual or contemplated active use of the domain name by the Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant's rights under trademark law.

In light of the above, the Complainant claims that the Respondent has registered and is using the disputed domain name <saint-gobian.com> in bad faith, so meeting also the third and final criterion of the UDRP three-part test.

RESPONDENT: NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown that the disputed domain name is identical or confusingly similar to trademarks 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 that 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 the UDRP were met and that there is no other reason why it would be inappropriate to provide a decision.

The Panel notes that its résumé of the Parties' contentions includes for the Complainant only its arguments pertinent to reaching a decision in this proceeding; it omits in particular references to past ADR Panels' Decisions. The Panel equally finds it unnecessary to consider a contention based on Decisions of some previous Panels regarding prima facie proof concerning the Respondent's lack of rights or legitimate interests since this contention does not affect evaluation of the evidence that the Panel has before it in that regard in this proceeding.

Finally, the Panel finds that the search-engine screenshot evidence proffered by the Complainant is inadmissible on grounds of irrelevance (see Factual Background). Being so excluded, the Panel has not therefore considered the Complainant's contention concerned to the extent that it relies solely upon that item of evidence.

PRINCIPAL REASONS FOR THE DECISION

This is an obvious case of typosquatting, as contended by the Complainant and despite some gaps in its argumentation in the Amended Complaint.

With reference to the UDRP three-part cumulative test, the Panel finds that:

- the variant "SAINT-GOBIAN" on "SAINT-GOBAIN" that the Respondent employed in the disputed domain name was clearly designed to take advantage of optical near-identity with "SAINT-GOBAIN" in disregard of the Complainant's protected rights in SAINT-GOBAIN;
- scrutiny of the Registrar Verification makes it immediately evident that the Respondent supplied false contact details, thereby obscuring its identity and by consequence also placing the Respondent's having rights or legitimate interest in a name so close to the Complainant's out of consideration;
- bad faith registration is evident from the Respondent's provision of blatantly false details and its registration of a domain name suited only to typosquatting. Bad faith use is indicated by the Registrar Verification, which shows the Respondent's propensity already at registration to employ an email address linked to financial activity (<accountant.com>). Armed now with the disputed domain name, and given the absence of a website associated with it, it is likely that its optical similarity to the Complainant's name is being or will be used in phishing emails in connection with some form of financial scam.

The UDRP, in particular with its non-exclusive examples of bad faith use, serves to protect not only rights holders like the Complainant but also, importantly, internet users as they go about their online lives. In this proceeding, the risk of email phishing may have been overlooked by the Complainant but is plain in the circumstances presented to the Panel by the entire Case File.

All parts of the UDRP test being fulfilled, the Panel therefore orders the transfer of the disputed domain name to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **saint-gobian.com**: Transferred

PANELLISTS

Name	Kevin Madders
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DATE OF PANEL DECISION: 2023-12-21

Publish the Decision