

ADMINISTRATIVE PANEL DECISION

Compagnie de Saint-Gobain v. Contact Privacy Inc. Customer 7151571251 /
Finizza, Heidi J., saint gobain
Case No. D2022-2422

1. The Parties

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

The Respondent is Contact Privacy Inc. Customer 7151571251, Canada / Finizza, Heidi J., saint gobain, United States of America.

2. The Domain Name and Registrar

The disputed domain name <saint-gobaih.com> is registered with Google LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 4, 2022. On July 4, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 5, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on July 6, 2022, 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 July 7, 2022.

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 July 7, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 27, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 28, 2022.

The Center appointed Alvaro Loureiro Oliveira as the sole panelist in this matter on August 2, 2022. 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 specialized in the production, processing, and distribution of materials for the construction and industrial markets worldwide. The Complainant is in the market for over 350 years and is one of the top 100 industrial groups in the world and one of the 100 most innovative companies, as evidenced by Annex 3 of the Complaint.

As shown in Annex 4, the Complainant owns several registrations for the mark SAINT-GOBAIN worldwide, among which European Union trademark registration n°001552843 of December 18, 2001, International registration n°551682 registered on July 21, 1989, International registration n°596735 registered on November 2, 1992.

The Complainant has registered a comprehensive number of domain names incorporating the mark SAINT-GOBAIN. Among these, it is important to mention the domain name <saint-gobain.com> registered on December 29^t, 1995. Evidence of these registrations appear as Annex 5.

The disputed domain name was registered on June 3, 2022 and resolves to an inactive page. In addition, there is evidence that MX servers were configured.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to the Complainant's mark SAINT-GOBAIN. The substitution of the letter "n" by the letter "h" is not sufficient to escape the finding that the disputed domain name is confusingly similar to Complainant's SAINT-GOBAIN trademark. The Complainant further argues that it is clear case of typosquatting.

The Complainant owns several registrations worldwide for the trademark SAINT-GOBAIN, as well as several domain names bearing this mark, as evidenced by annexes 4 and 5 to the Complaint.

The Complainant contends that Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is not affiliated with nor authorized by the Complainant in any way.

The disputed domain name do not resolve to an active website, as seen in Annex 6. In addition, MX-records are set up for the disputed domain name, as shows Annex 7 of the Complaint.

B. Respondent

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

6. Discussion and Findings

The Policy, in its paragraph 4(a), determines that three elements must be presented and duly proven by a Complainant to obtain relief. These elements are:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect to the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has presented evidence of ownership of the trademark SAINT-GOBAIN in jurisdictions throughout the world, by presenting international registrations for it, as well as comprehensive evidence of the use of the trademark to identify the original services for over 350 years.

The disputed domain name is, indeed, confusingly similar to the SAINT-GOBAIN trademark. It clearly shows the Complainant's mark with the substitution of the letter "n" with the letter "h", - which can be seen as an example of typosquatting.

The use of the trademark with the alternate letter in the disputed domain name does not differentiate it from the trademark – replacing an "n" for an "h" does not prevent a finding of confusing similarity, as the Complainant's trademark is recognizable within the disputed domain name. Further, the letter change can be also considered a common misspelling – particularly when "n" and "h" are close letters on a keyboard. Misspelling is indeed a fact which typosquatters normally take profit from by giving Internet users the impression that the disputed domain name belongs to the Complainant.

Given the above, the Panel concludes that the disputed domain name is confusingly similar to the registered trademark of the Complainant.

B. Rights or Legitimate Interests

Given the clear evidence that the trademark SAINT-GOBAIN is registered in the Complainant's name and is widely known as identifying the Complainant's activities, and that the Complainant has not licensed its trademark to the Respondent, the Panel finds that the Complainant has established *prima facie* that the Respondent has no rights or legitimate interests in the disputed domain name. In the absence of a Response, the Respondent has not rebutted such *prima facie* case.

It has also been shown that the Respondent is not making any use of the disputed domain name besides having registered it to create a likelihood of confusion with the Complainant's mark. In addition, the Complainant contends that the MX-records are set up for the disputed domain name, which indicates a potential risk of fraud, without this being rebutted by the Respondent. The use of a domain name for illegal activity (e.g., fraud, impersonation) can never confer rights or legitimate interests upon a respondent.

The Panel notes that for the registration of the disputed domain name the name "saint gobain" was provided in the Whois. The Panel is not aware, and no evidence has been brought forward, of the existence of an entity with such a name. Even if such entity exists, noting the well-known character of the SAINT-GOBAIN trademark and the MX-records at the disputed domain name, the Panel finds that it would not be sufficient to give rise to rights or legitimate interests of the Respondent in the disputed domain name.

The Panel, thus, finds for the Complainant under the second element of the Policy.

C. Registered and Used in Bad Faith

Given the circumstances of this case, the facts outlined in sections A and B above can also evidence the Respondent's bad faith in the registration and use of the disputed domain name.

The disputed domain name was registered to clearly mislead the consumers – hence the substitution of an “n” by an “h” in the trademark. The Respondent intended to give an overall impression that the disputed domain name is associated with the Complainant, and the Panel accepts that the disputed domain name may have been intended to use the Complainant’s renowned trademark for unlawful purposes – the configuration of the MX-records suggests that the disputed domain name may be used for unlawful use.

Accordingly, the Panel accepts that the disputed domain name is being used in bad faith. Under the circumstances, the fact that the disputed domain name does not currently resolve to an active website does not prevent a finding of bad faith.

All the points above lead to the conclusion by this Panel that the Respondent was fully aware of the Complainant and that the Respondent registered and is using the disputed domain name in bad faith.

The Panel finds that the Complainant has also proved 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-gobaih.com > be transferred to the Complainant.

/Alvaro Loureiro Oliveira/

Alvaro Loureiro Oliveira

Sole Panelist

Date: August 16, 2022