

ADMINISTRATIVE PANEL DECISION

Compagnie de Saint-Gobain v. Greg William, WAMMCO International
Case No. D2022-2177

1. The Parties

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

The Respondent is Greg William, WAMMCO International, Belgium.

2. The Domain Name and Registrar

The disputed domain name <sanit-gobian.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 in English with the WIPO Arbitration and Mediation Center (the “Center”) on June 15, 2022. On June 15, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 16, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name(s) which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on June 17, 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 in English on June 17, 2022.

On June 17, 2022, the Center transmitted an email communication to the Parties in English and Japanese regarding the language of the proceeding. On June 17, 2022, the Complainant submitted a request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

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 in English and Japanese of the Complaint, and the proceedings commenced on June 23, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 13, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 14, 2022.

The Center appointed Masato Dogauchi as the sole panelist in this matter on July 27, 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 is a French company specialized in the production, processing and distribution of materials for the construction and industrial markets. It has around 350-year-old history and is now one of the top 100 industrial groups in the world.

The Complainant owns several SAINT-GOBAIN trade marks registered worldwide, such as follows:

- European Registration No. 001552843, registered on December 18, 2001;
- International Registration No. 740184, registered on July 26, 2000.

The Complainant also owns many domain names including its SAINT-GOBAIN trade mark, such as the domain name <saint-gobain.com> registered on December 29, 1995.

The disputed domain name <sanit-gobian.com> was registered on October 25, 2021. It resolves to an inactive page.

5. Parties' Contentions

A. Complainant

The Complainant's contentions are divided into three parts as follows:

First, the word "sanit-gobian" in the disputed domain name is an obvious misspelling of the Complainant's SAINT-GOBAIN trade mark, *i.e.* the reversal of the letters "i" and "n" in "saint" and the letters "a" and "i" in "gobain". This is a clear case of typosquatting. It is well established that the slight spelling variations do not prevent a disputed domain name from being confusingly similar to the Complainant's trademark. Thus, the disputed domain name is substantially and confusingly similar as a whole to the registered trademarks of the Complainant.

Second, the Respondent is not identified in the Whois database as the disputed domain name. The Respondent is not affiliated with nor authorized by the Complainant in any way. The fact that the disputed domain name resolves to an inactive page indicates that the Respondent has no demonstrable plan to use it and therefore it demonstrates a lack of legitimate interests in respect of the disputed domain name. Thus, the Respondent has no rights and legitimate interest in the disputed domain name.

Third, in consideration of the fact that the Complainant's SAINT-GOBAIN trade mark in the world market, the Respondent obviously knew the prior rights and wide use of the Complainant's trade mark at the time of registration of the disputed domain name. On the other hand, with regard to the use of the disputed domain name in bad faith, the fact that the disputed domain name resolved to an inactive page and MX servers are configured is enough to show the bad faith use. Thus, the disputed domain name has been registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

6.1. Preliminary Issue: Language of Proceedings

In respect of the language to be used in the administrative proceeding, in accordance with the Rules, paragraph 11(a), the language of the administrative proceeding shall be, in principle, the language of the registration agreement. However, the same provision allows the panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

In the present case, the Registrar has confirmed that the language of the Registration Agreement is Japanese.

The Panel determines that the language of this proceeding shall be English rather than Japanese on the following grounds:

- the Complainant requested to that effect;
- the Respondent surely has become aware of this case filed by the Complainant and did not reply to the notification in both English and Japanese by the Center that the Respondent was invited to indicate its objection, if any, to the Complainant's request for the language by the specified due date; and
- the disputed domain name is in Latin script and not in Japanese script;
- the use of Japanese language would produce undue burden on the Complainant in consideration of the absence of a Response from the Respondent.

6.2. Substantive Matters

In accordance with the Rules, paragraph 15(a), a panel shall decide a case on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable. Since the Respondent has not made any substantive arguments in this case, the following decision is rendered on the basis of the Complainant's contentions and other evidence submitted by the Complainant.

In accordance with the Policy, paragraph 4(a), in order to qualify for a remedy, the Complainant must prove each of the following:

- (i) the disputed domain name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of 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 Panel finds that the Complainant has rights in the SAINT-GOBAIN trade mark.

The last part of the disputed domain name, *i.e.* “.com” represents one of the generic Top-Level Domains, which is irrelevant in the determination of the confusing similarity between the disputed domain name and the SAINT-GOBAIN trade mark.

The first part of the disputed domain name, *i.e.* “sanit-gobian” is different from the Complainant’s SAINT-GOBAIN trade mark in that the sequential order of the letters “i” and “n” in “saint”, and the letters “a” and “i” in “gobain”, is reversed. The inversion of letters is a typical example of typosquatting. The Panel finds that the disputed domain name, being a typosquatted version of the Complainant’s SAINT-GOBAIN trade mark, is confusingly similar to the trade mark in which the Complainant has rights. The above requirement provided for in paragraph 4(a)(i) of the Policy is accordingly satisfied.

B. Rights or Legitimate Interests

There is no evidence that shows the Respondent is commonly known by the name “sanit-gobian” or that the Respondent is affiliated with the Complainant or authorized or licensed to use the Complainant’s trade mark.

The disputed domain name resolves to an inactive page. This suggests that the Respondent has not used the disputed domain name in connection with a *bona fide* offering of goods or services or for any legitimate noncommercial or fair use.

Since the Respondent did not reply to the Complaint in this proceeding, the Panel finds on the available record that the Complainant has established an un rebutted *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The above requirement provided for in paragraph 4(a)(ii) of the Policy is accordingly satisfied.

C. Registered and Used in Bad Faith

The Complainant is a large French company specialized in the production, processing and distribution of materials for the construction and industrial markets. In consideration of the fact that the volume of the Complainant’s business in world market using its SAINT-GOBAIN trade mark, it is highly unlikely that the Respondent would not have known of the Complainant’s right in the trade mark at the time of the disputed domain name’s registration. In addition, in light of the fact that nothing in the disputed domain name bears a reasonable relevance to the name of the Respondent, it seems more likely than not that the Respondent registered the disputed domain name in bad faith.

With regard to the use of the disputed domain name in bad faith, the fact that the disputed domain name resolved to an inactive page and MX servers are configured suggests a bad faith use. From the inception of the UDRP, panelists have found that the non-use of a domain name (including a blank or “coming soon” page) would not prevent a finding of bad faith under the doctrine of passive holding. See, section 3.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”). The Panel finds that circumstances of passive holding in bad faith are present here. In addition, the above consideration is supported in WIPO UDRP precedent, such as *Oxygen Media, LLC v. Primary Source*, WIPO Case No. [D2000-0362](#) (<0xygen.com> (with the first character being the number zero); *Boehringer Ingelheim Pharma GmbH & Co. KG v. Martin Hughes*, WIPO Case No. [D2016-1546](#) (<boehringer-ingalheim.com>).

The Respondent did not reply to the Complaint in this proceeding. The Panel finds that this further corroborates that the disputed domain name has been registered in bad faith and is being used in bad faith. The above requirement provided for in paragraph 4(a)(iii) of the Policy is accordingly satisfied.

In conclusion, all three cumulative requirements as provided for in paragraph 4(a) of the Policy are determined to be satisfied.

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 <sanit-gobian.com> be transferred to the Complainant.

/Masato Dogauchi/

Masato Dogauchi

Sole Panelist

Date: August 10, 2022