

ADMINISTRATIVE PANEL DECISION

Compagnie de Saint-Gobain v. Domain Admin, Isimtescil.net,
Whoisprotection.biz / Derya Beggi, Emak Yapi Malzemeleri Ltd Sti
Case No. D2022-1308

1. The Parties

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

The Respondent is Domain Admin, Isimtescil.net, Whoisprotection.biz, Turkey / Derya Beggi, Emak Yapi Malzemeleri Ltd Sti, Turkey.

2. The Domain Name and Registrar

The disputed domain name <saintgobainmarket.com> is registered with Isimtescil Bilişim A.Ş. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 12, 2022. On April 12, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 12, 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 April 14, 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 April 19, 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 April 22, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 12, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 13, 2022.

The Center appointed Kaya Köklü as the sole panelist in this matter on May 16, 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 company incorporated in France and globally active in the production, processing and distribution of construction materials.

The Complainant owns various SAINT-GOBAIN trademark registrations for construction materials and related services around the world. For instance, the Complainant is the registered owner of the International Trademark Registration No. 740183 (registered on July 26, 2000), designating many jurisdictions including Turkey, where the Respondent is reportedly located (Annex 5 to the Complaint).

Furthermore, the Complainant holds and operates various domain names incorporating its SAINT-GOBAIN trademark, including <saint-gobain.com> (registered on December 29, 1995) (Annex 6 to the Complaint).

The disputed domain name was registered on November 22, 2021.

The Respondent is reportedly a representative of a construction materials company in Turkey.

As evidenced by screenshots in the Complaint (Annex 7 to the Complaint), the disputed domain name resolved to a website in Turkish language that prominently used the Complainant's SAINT-GOBAIN trademark and announced that the respective website will go live soon. A visible disclaimer describing the (lack of) relationship between the Parties was not used.

At the time of the decision, the disputed domain name does no longer resolve to an active website.

5. Parties' Contentions

A. Complainant

The Complainant is of the opinion that the disputed domain name is confusingly similar to its SAINT-GOBAIN trademark.

Furthermore, the Complainant argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Finally, it is argued that the Respondent has registered and is using the disputed domain name in bad faith.

B. Respondent

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

6. Discussion and Findings

6.1. Language of the Proceeding

The Panel determines in accordance with the Complainant's request and the Rules, paragraph 11(a), that the language of these administrative proceedings shall be English. Although the language of the registration agreement of the disputed domain name is Turkish, the Panel finds that it would be inappropriate, given the circumstances of this case, to conduct the proceedings in Turkish and request a Turkish translation of the

Complaint while the Respondent has failed to raise any objection or even to respond to the Center's communication about the language of the proceedings, even though communicated in Turkish and in English. The Panel particularly notes that the Respondent was given the opportunity to respond in Turkish and that this opportunity remained unused.

Consequently, the Panel is convinced that the Respondent will not be prejudiced by a decision being rendered in English.

6.2. Substantive Issues

According to paragraph 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

(i) the disputed domain name is identical or confusingly similar to a trademark 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.

Paragraph 4(a) of the Policy states that the Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complainant's contentions. *Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

However, concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

It is further noted that the Panel has taken note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the consensus views captured therein.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has longstanding trademark rights in the mark SAINT-GOBAIN by virtue of a large number of trademark registrations worldwide.

The Panel further finds that the disputed domain name is confusingly similar to the Complainant's registered trademark, as it fully incorporates the SAINT-GOBAIN trademark. As stated at section 1.8 of the [WIPO Overview 3.0](#), where the relevant trademark is recognizable within the disputed domain name, the addition of other terms does not prevent a finding of confusing similarity. The mere addition of the generic term "market" in combination with the omission of a hyphen does, in view of the Panel, not serve to prevent a finding of confusing similarity between the disputed domain name and the Complainant's SAINT-GOBAIN trademark.

Accordingly, the Panel finds that the Complainant has satisfied the requirement under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Panel further finds that the Respondent has failed to demonstrate any rights or legitimate interests in the disputed domain name.

While the burden of proof on this element remains with the complainant, previous UDRP panels have recognized that this would result in the often impossible task of proving a negative, in particular as the evidence in this regard is often primarily within the knowledge of the respondent. Therefore, the Panel agrees with prior UDRP panels that the Complainant is required to make out a *prima facie* case before the burden of production shifts to the Respondent to show that it has rights or legitimate interests in the disputed domain name in order to meet the requirements of paragraph 4(a)(ii) of the Policy. See *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#).

The Panel finds that the Complainant has satisfied this requirement, while the Respondent has failed to file any evidence or make any convincing argument to demonstrate rights or legitimate interests in the disputed domain name according to the Policy, paragraphs 4(a)(ii) and 4(c).

In its Complaint, the Complainant has provided uncontested *prima facie* evidence that the Respondent has no rights or legitimate interests to use the Complainant's SAINT-GOBAIN trademark in a confusingly similar way within the disputed domain name.

In the absence of a Response, the Respondent has failed to demonstrate any of the nonexclusive circumstances evidencing rights or legitimate interests under the Policy, paragraph 4(c), or provide any other evidence of rights or legitimate interests in the disputed domain name. There is also no indication in the current record that the Respondent is commonly known by the disputed domain name.

Further, the Panel notes that the nature of the disputed domain name carries a significant risk of implied affiliation or association, as stated in section 2.5.1 of the [WIPO Overview 3.0](#).

Bearing all this in mind, the Panel does not see any basis for assessing a *bona fide* offering of goods or services by the Respondent.

As a conclusion, the Panel finds that the Complainant has also satisfied the requirements of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel is convinced that the Respondent was fully aware of the Complainant's trademark when it registered the disputed domain name in November 2021. At the date of registration of the disputed domain name, the Complainant's SAINT-GOBAIN trademark was already registered and widely used for many years.

The Panel is further convinced that the Respondent, who is apparently a competitor of the Complainant in the field of selling construction materials in Turkey, has intentionally registered the disputed domain name in order to target the Complainant's business and generate traffic by misleading Internet users to its own website. There is no need to discuss in detail that registering a domain name comprising a competitor's company name and trademark constitutes bad faith under the Policy.

Furthermore, the Panel accepts that the failure of the Respondent to submit a substantive response to the Complainant's contentions is an additional indication for bad faith.

All in all, the Panel cannot conceive of any plausible and legitimate use of the disputed domain name that would be in good faith, except with an authorization of the Complainant. In fact, the Panel is convinced that this is a typical cybersquatting case, which the UDRP was designed to stop.

Taking all facts of the case into consideration, the Panel concludes that the disputed domain name was registered and is being used in bad faith and that the Complainant has also satisfied the third element of the Policy, namely, paragraph 4(a)(iii) 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 <saingobainmarket.com> be transferred to the Complainant.

/Kaya Köklü/

Kaya Köklü

Sole Panelist

Date: May 30, 2022