

ADMINISTRATIVE PANEL DECISION

Compagnie de Saint-Gobain v. Brian Feury, SAINT GOBAIN Case No. D2022-4940

1. The Parties

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

The Respondent is Brian Feury, SAINT GOBAIN, United States of America.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 22, 2022. On December 23, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On December 24, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Contact Privacy Inc. Customer 7151571251) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 26, 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 December 26, 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 December 28, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 17, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 18, 2023.

The Center appointed Willem J. H. Leppink as the sole panelist in this matter on January 27, 2023. 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 following facts are undisputed.

The Complainant is a company incorporated in France. Founded 350 years ago, it has become a leading company specialized in the field of construction material, operating worldwide and employing nearly 170,000 people. Its subsidiary Saint Gobain Adfors is a producer of reinforcement technical textiles for construction markets, with over 4,400 employees and a presence in 11 countries worldwide. Its official website is "www.adfors.com".

The Complainant owns several trademark registrations for SAINT-GOBAIN in many countries including:

- European Union Trade Mark No. 001552843, SAINT-GOBAIN, registered on December 18, 2001, in classes 1, 2, 3, 6, 7, 8, 9, 10, 11, 12, 17, 19, 20, 21, 22, 23, 24, 37, 38, 40, and 42;
- International Trademark Registration No. 740183, SAINT-GOBAIN, registered on July 26, 2000, in classes 1, 2, 3, 6, 7, 8, 9, 10, 11, 12, 17, 19, 20, 21, 22, 23, 24, 37, 38, 40, and 42,

hereinafter also in singular referred to as the "Trademark".

The Complainant's subsidiary Saint Gobain Adfors, owns trademark rights for ADFORS.

The Complainant owns the domain name <saint-gobain.com> which was registered on December 29, 1995. The said domain name resolves to the Complainant's official website.

The Domain Name was registered on December 19, 2022 and does not resolve to an active webpage.

5. Parties' Contentions

A. Complainant

The Complainant contends the following:

The Domain Name is confusingly similar to the Trademark, which is well-known and distinctive.

The addition of the term "adfors" does not change the overall impression of the designation as being connected to the Trademark.

The Respondent has no rights or legitimate interests in the Domain Name for the following reasons:

- (i) the Respondent is not commonly known by the Domain Name;
- (ii) the Respondent appears to make no genuine use of the Domain Name; and
- (iii) the Complainant has never licensed or otherwise authorized in any way the Respondent to use the Trademark as domain name or as element of a domain name or for any other kind of purpose.

The Domain Name was registered and is being used in bad faith.

The Domain Name was created recently. The Complainant was already extensively using the Trademark worldwide well before the Domain Name was registered. The Trademark has a well-known character

worldwide and has a long-standing worldwide operating website under the <saintgobain.com> domain name, which has been confirmed in previous UDRP decisions. The addition of the term “adfors” to the Trademark in the Domain Name cannot be coincidental, as it directly refers to the Complainant’s subsidiary Saint-Gobain Adfors.

Given the distinctiveness of the Trademark and its reputation, it is reasonable to infer that the Respondent has registered the Domain Name with full knowledge of the Complainant’s trademark. Besides, the Domain Name resolves to an inactive page. Thus the Respondent has not demonstrated any activity in respect of the Domain Name, 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. Finally, MX servers are configured which suggests that the Domain Name may be actively used for email purposes.

B. Respondent

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

6. Discussion and Findings

Pursuant to paragraph 4(a) of the Policy, the Complainant must prove each of the following three elements:

- (i) the 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 Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

Noting the burden of proof on the Complainant, the Respondent’s default (*i.e.*, failure to submit a formal response) would not by itself mean that the Complainant is deemed to have prevailed. The Respondent’s default is not necessarily an admission that the Complainant’s claims are true. See in this regard WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.3, “In cases involving wholly unsupported and conclusory allegations advanced by the complainant, or where a good faith defense is apparent (*e.g.*, from the content of the website to which a disputed domain name resolves), panels may find that – despite a respondent’s default – a complainant has failed to prove its case. Further to paragraph 14(b) of the UDRP Rules however, panels have been prepared to draw certain inferences in light of the particular facts and circumstances of the case *e.g.*, where a particular conclusion is *prima facie* obvious, where an explanation by the respondent is called for but is not forthcoming, or where no other plausible conclusion is apparent.”

A. Identical or Confusingly Similar

The Complainant must demonstrate that it has rights in a trademark or service mark and, if so, the Domain Name must be shown to be identical or confusingly similar to that mark.

The Complainant has shown that it has rights in the Trademark, valid in various jurisdictions worldwide.

As set out in the [WIPO Overview 3.0](#), section 1.7, the first element functions primarily as a standing requirement. The threshold test for confusing similarity between the Domain Name and the Trademark involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the Domain Name.

In light of the foregoing, the Panel finds that the Domain Name is confusingly similar to the Trademark.

The Domain Name consists of the elements “saint-gobain” and the term “adfors-”, and the generic Top-Level Domain (“gTLD”) “.com”. The element “saint-gobain” is identical to the Trademark. The Panel finds that the Trademark is included in its entirety in the Domain Name and that the additional term does not prevent a finding of confusing similarity.

In light of the foregoing, the Panel finds that the Domain Name is confusingly similar to the Trademark.

Therefore, the Panel is satisfied that the first element of the Policy is met.

B. Rights or Legitimate Interests

The Panel has carefully considered the factual allegations that have been made by the Complainant and are supported by the submitted evidence.

In particular, the Respondent has failed to offer the Panel any of the types of evidence set forth in paragraph 4(c) of the Policy from which the Panel might conclude that the Respondent has rights or legitimate interests in the Domain Name, such as:

- (i) use or preparation to use the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services prior to notice of the dispute; or
- (ii) being commonly known by the Domain Name (as an individual, business or other organization) even if the Respondent has not acquired any trademark or service mark rights; or
- (iii) making legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Respondent does not seem to be affiliated with the Complainant in any way. There is no evidence that “Adfors Saint-Gobain” is the Respondent’s name or that the Respondent is commonly known under this name, notwithstanding that the Respondent has the name “SAINT GOBAIN” included in its registrant details. Rather, it appears the Respondent has purposely chosen the name “SAINT GOBAIN” in an attempt to falsely suggest a connection or affiliation with the Complainant, potentially in furtherance of a fraudulent scheme.

There is also no evidence that the Respondent is, or has ever been, a licensee of the Complainant or that the Respondent has ever asked, or has ever been permitted in any way by the Complainant to register or use the Trademark, or to apply for or use any domain name incorporating the Trademark.

As the Domain Name does not resolve to an active page, the Respondent is not making use of the Domain Name for the *bona fide* offering of any goods or services, nor for any noncommercial or fair purposes. There is also no evidence the Respondent is engaged in any demonstrable preparations to use the Domain Name.

Certainly noting that the Respondent has failed to respond to the Complaint and thus has not taken any steps to rebut the Complainant’s arguments, the Panel finds that the Respondent lacks rights to or legitimate interest in the Domain Name.

Therefore, the Panel is satisfied that the second element of the Policy is met.

C. Registered and Used in Bad Faith

The Panel finds that the Domain Name was registered and is being used in bad faith.

The Panel refers to its considerations under section 6.B and adds the following:

In light of the evidence filed by the Complainant, the Panel finds that the Trademark and the Complainant’s activities are well known throughout the world. Accordingly, in the Panel’s view, also taking into account the

use of the name of the Complainant's subsidiary, the Respondent must have been aware of the existence of the Complainant's activities and rights at the time the Respondent registered the Domain Name.

In the Panel's view, there is no 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, an infringement of the Complainant's rights under trademark law, or use for phishing purposes, bearing in mind that MX servers are configured.

Last, the Respondent uses a privacy shield to hide his contact details and did not avail itself of the opportunity to respond to the claims made by the Complainant, which are also additional factors for considering a registration in bad faith (see [WIPO Overview 3.0](#), section 3.6).

Therefore, the Panel is satisfied that the third element of the Policy is met.

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 Domain Name <adfors-saint-gobain.com> be transferred to the Complainant.

/Willem J. H. Leppink/

Willem J. H. Leppink

Sole Panelist

Date: February 9, 2023