

## **ADMINISTRATIVE PANEL DECISION**

Compagnie De Saint-Gobain v. B. Z. E.  
Case No. D2023-4848

### **1. The Parties**

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

The Respondent is B. Z. E., United States of America.

### **2. The Domain Name and Registrar**

The disputed domain name < saint-gobain.com > is registered with Squarespace Domains II LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 22, 2023. On November 22, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 22, 2023, 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 (Contact Privacy Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant November 23, 2023, 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 November 23, 2023.

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 November 23, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 13, 2023. On November 27, 2023, a third party sent an email communication to the Center. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 19, 2023.

The Center appointed Zoltán Takács as the sole panelist in this matter on December 26, 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**

Founded in 1665, the Complainant is a French multinational corporation that produces a variety of construction materials and high-performance solutions that improve habitat.

The Complainant is present in 75 countries and as of 2022 employs around 170,000 people.

The Complainant owns a portfolio of trademarks consisting of or comprising the term SAINT-GOBAIN, including the International Trademark Registration No. 740183 for the word mark SAINT-GOBAIN, registered since July 26, 2000, for variety of goods and services.

The Complainant also owns a number of domain name registrations corresponding to or containing its SAINT-GOBAIN trademark. The Complainant's primary website is located at "www.saint-gobain.com" with the corresponding domain name being registered since December 29, 1995.

The disputed domain name was registered on October 30, 2022, and appears not to have resolved to an active website.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that:

- the disputed domain name is confusingly similar to its SAINT-GOBAIN trademark, since it incorporates a misspelled variation of it, replacing the letter "n" with letter "m" in the "gobain" element of the trademark;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name;
- given the distinctiveness and reputation of the SAINT-GOBAIN trademark it is reasonable to presume that the Respondent registered the disputed domain name with full knowledge of the trademark.

The Complainant requests that the disputed domain name be transferred from the Respondent to the Complainant.

##### **B. Respondent**

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

However, on November 27, 2023, a third party that received the Written Notice in relation to these proceedings, addressed and sent to the Respondent through the address confirmed by the Registrar, sent an email to the Center advising among others that they "received a notice by the carrier DHL about the dispute that has been filed with WIPO" and "that the address used by this person is incorrect as we are a local electrical supply company and we have never heard of the person it was addressed to".

## 6. Discussion and Findings

Paragraph 15(a) of the Rules requires that the Panel's decision be made “on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

A complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the complaint, namely that:

- (i) the 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 of the domain name; and
- (iii) the domain name has been registered and is being used in bad faith.

### A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ([“WIPO Overview 3.0”](#)), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds that the disputed domain name is a clear example of typosquatting, since it's a misspelled variant of the Complainant's SAINT-GOBAIN mark. The only difference between the two is that in the disputed domain name the letter “n” of the word element “gobain” of the trademark is replaced by the letter “m”. A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by UDRP panels to be confusingly similar to the relevant mark for the purpose of the first element. [WIPO Overview 3.0](#), section 1.9.

Based on the available record, the Panel finds that the disputed domain name is confusingly similar to the mark for the purposes of the Policy and that the first element of the Policy has been established.

### B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Panel notes that the disputed domain name does not resolve to an active website, and as such it is not used in connection with a *bona fide* offering of goods or services. Furthermore, given that the disputed domain name is a classic example of typosquatting whereby the Respondent has intentionally sought to create confusion for Internet users unaware of the one-letter difference between the disputed domain name and the Complainant's trademark, the Respondent's use does not qualify as a *bona fide* offering of goods or services.

Based on the available record, the Panel finds that the second element of the Policy has been established.

### **C. Registered and Used in Bad Faith**

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Complainant's trademark, misspelled variant of which the disputed domain name fully incorporates is inherently distinctive and used worldwide by the Complainant for over 300 years. A basic Internet search against the disputed domain name returns solely the Complainant and its business. These facts in view of the Panel show that the Respondent must have been aware of the Complainant's business and trademark at the time of obtaining the disputed domain name and chose to register it to target the Complainant's trademark.

Furthermore, for the reasons discussed above the Panel considers the Respondent's obvious misspelling of the Complainant's trademark in the disputed domain name a clear case of typosquatting registration. UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely known trademark by an unaffiliated entity by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

As mentioned above, there is no evidence that the disputed domain name has resolved to an active website.

Panels 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. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3.

Having reviewed the available record, the Panel notes the distinctiveness and reputation of the Complainant's trademark, the composition of the disputed domain name as mentioned above, as well as the Respondent's use of false contact details at registration of the disputed domain name. Furthermore, the Respondent failed to provide any explanation as to its registration of the disputed domain name and any good faith use to which the inherently misleading disputed domain name may be put appears to be implausible. Accordingly, the Panel finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Based on the available record, the Panel finds that the Complainant has established 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-gobaim.com> be transferred to the Complainant.

*/Zoltán Takács/*

**Zoltán Takács**

Sole Panelist

Date: January 9, 2024