Decision for dispute CAC-UDRP-102192

Case number	CAC-UDRP-102192
Time of filing	2018-10-16 12:58:18
Domain names	bouyguebuildingcanada.com

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	BOUYGUES

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Name	Todd Peter

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other pending or decided legal proceedings relating to the disputed domain name.

IDENTIFICATION OF RIGHTS

Founded by Francis Bouygues in 1952, BOUYGUES (the Complainant) is a group of industrial companies with two main business areas: construction, with Bouygues Construction, Bouygues Immobilier, and Colas and telecoms and media, with French TV channel TF1 and Bouygues Telecom.

Its subsidiary BOUYGUES CONSTRUCTION is a world player in the fields of building, public works, energy, and services. The Complainant has a company trading as Bouygues Building Canada

The Complainant is the owner of several trademarks containing the term “BOUYGUES”, such as:
- The international trademark BOUYGUES® n°390770 registered since 1972-09-01;
- The international trademark BOUYGUES® n°390771 registered since 1972-09-01;
- The international trademark BOUYGUES CONSTRUCTION® n°732339 registered since 2000-04-13;
- The international trademark BOUYGUES® n°949188 registered since 2007-09-27.

The Complainant, in particular through its subsidiary BOUYGUES CONSTRUCTION, also owns a number of domain names “BOUYGUES”, such as <bouyguesbuildingcanada.com>, registered since 2012-02-28.

FACTUAL BACKGROUND

The disputed domain name was registered on 2018-05-14.

The website in relation with the disputed domain name points to a parking page with commercial links (“PPC”).

PARTIES CONTENTIONS

The Complainant’s contentions can be summarised as follows:

The Complainant contends that the disputed domain name is confusingly similar to its trademarks BOUYGUES®.

Indeed, the addition of the term “BUILDING” (which means in French “CONSTRUCTION”), the deletion of the letter “S” (which is not pronounced) and the the addition of the geographic term “CANADA” to the trademark BOUYGUES® is not sufficient to exclude the likelihood of confusion existing, as it refers directly to BOUYGUES BUILDING CANADA, a company belonging to the Group BOUYGUES CONSTRUCTION, and to the website www.bouyguesbuildingcanada.com.

Furthermore, it is well established that gTLDs may typically be disregarded in the assessment under paragraph 4(a)(i) of the Policy when comparing disputed domain name and trademark.

Thus, the disputed domain name is confusingly similar to the Complainant’s trademarks.

The Complainant contends that the Respondent is not affiliated with nor authorized by BOUYGUES in any way. The Complainant does not carry out any activity for, nor has any business with the Respondent.

The disputed domain name points to the Registrar parking page with commercial links related to the Complainant, in particular its subsidiary BOUYGUES TELECOM. Thus, the Complainant contends that the Respondent has registered the disputed domain name with the aim to attract internet users and to divert Internet traffic initially destined to the Complainant to the Respondent’s own website by creating a likelihood of confusion and by trading on the fame of the Complainant's trademarks BOUYGUES® and BOUYGUES CONSTRUCTION®. This does not constitute a 'bona fide' offering of goods.

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

Prior UDRP panels have established that the trademark BOUYGUES® is well-known.

Given the distinctiveness of the Complainant's trademarks and reputation, it is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademarks.

The disputed domain name resolves to a parking page with pay per click links in relation to the Complainant, in particular with the Complainant’s subsidiary BOUYGUES TELECOM.

Thus, the Respondent has registered the disputed domain name with the aim of creating a likelihood of confusion between the domain name and the Complainant's trademark BOUYGUES®, and to take advantage of this confusion in Internet users’ minds. Therefore, the Complainant contends that disputed domain name was registered and is being used in bad faith.

Thus, the Complainant concludes that the Respondent has registered and is using the disputed domain name in bad faith.

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark using a misspelling of the Complainant's trademark excluding only the letter 's' and adding only the descriptive term 'building' and the geographical term 'Canada' which does not prevent confusingly similarity.

The Respondent has used the disputed domain name for pay per click links which is not a bona fide offering of goods or services or a legitimate non-commercial or fair use of the disputed domain name. The Respondent is not commonly known under the disputed domain name and is not authorised by the Complainant.

In view of the lack of any Response from the Respondent, or any other information indicating the contrary, the Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

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The Complainant has a company trading as Bouygues Building Canada. Accordingly the disputed domain name appears to be a typosquatting registration designed to confuse internet consumers and used for pay per click links for commercial gain and to disrupt the Complainant's business under paragraph 4 (b) (iii) and (iv) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **BOUYGUEBUILDINGCANADA.COM**: Transferred

PANELLISTS

Name	**Dawn Osborne**

DATE OF PANEL DECISION 2018-11-19

Publish the Decision