Decision for dispute CAC-UDRP-102981

Case number	CAC-UDRP-102981
Time of filing	2020-03-20 12:25:38
Domain names	bouygues-constructiontp.com

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	BOUYGUES

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Organization	Gerald Jean Marcel Billion

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

The Complainant is the owner of several trademarks such as the International trademarks BOUYGUES n°390770 registered since September 1, 1972, n°390771 registered since September 1, 1972, n°949188 registered since September 27, 2007 and the international trademark BOUYGUES CONSTRUCTION n°732339 registered since April 13, 2000.
The Complainant also owns, through its subsidiary, the domain names <bouygues-construction.com>, registered since May 10 and <bouygues-tp.com> registered since January 31, 2013.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Complainant draws attention to previous case law:

A domain name that wholly incorporates a Complainant’s registered trademark may be sufficient to establish confusing similarity for purposes of the UDRP. WIPO Case No. D2003-0888, Dr. Ing. h.c. F. Porsche AG v. Vasiliy Terkin.

- Forum Case No. FA 1781783, Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group

<bobsfromsketchers.com> (“Here, the WHOIS information of record identifies Respondent as “Chad Moston / Elite Media Group.” The Panel therefore finds under Policy paragraph 4(c)(ii) that Respondent is not commonly known by the disputed domain name under Policy paragraph 4(c)(ii).”);
- WIPO Case No. D2000-1164, Boeing Co. v. Bressi (“the Respondent has advanced no basis on which he could conclude that it has a right or legitimate interest in the domain names”);
- WIPO Case No. D2019-1401, Bouygues S.A. v. Rafael Vivier (“The Panel is further convinced that, due to the phishing activity and the inactivity of the website, there was no bona fide offering of goods or services under paragraph 4(c)(i) of the Policy, nor a noncommercial or fair use pursuant to paragraph 4(c)(iii) of the Policy.”);
- CAC case No. 101387, BOUYGUES v. Laura Clare <bouygeus-construction.com> (“Here only two characters of the disputed domain name are different from the Complainant's well known registered mark [BOUYGUES CONSTRUCTION]”);
- WIPO Case No. D2019-1401, Bouygues S.A. v. Rafael Vivier (“Furthermore, in the phishing email, the Panel takes note of the Respondent’s use of the Complainant’s logo and the inclusion of the URL of the Complainant’s domain name <bouygues-tp.com>. There is also a statement in the email’s signature that claims that the Respondent is an affiliate of the Complainant’s wholly-owned subsidiary, Bouygues Construction. When taken together, it appears that the Respondent was aware of the Complainant and was seeking to unlawfully misrepresent a connection between the Respondent and Complainant when there was none. The Panel has no hesitation in making a finding of bad faith in this case despite the inactive website.”);
- WIPO Case No. D2014-1471, Accor v. SANGHO HEO / Contact Privacy Inc. (“The un-opposed allegation of phishing, and the evidence submitted in support of phishing, combined with the likelihood of confusion, is sufficient evidence of bad faith“);
- Forum Case No. 1393436, Qatalyst Partners LP and Qatalyst Partners LLP v. Alyna Devimore / N/A (“the Panel holds that Respondent’s registration and use of the <qatalystpartnerslp.com> domain name as part of the phishing scheme described above is sufficient evidence of bad faith registration and use pursuant to Policy paragraph 4(a)(iii)”).

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name <bouygues-constructiontp.com> is identical or confusingly similar to its trademarks BOUYGUES and BOUYGUES CONSTRUCTION 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

Using a domain name for purposes of phishing or other fraudulent activity constitutes solid evidence of bad faith use. Complainant has delivered evidence that the Respondent has used the domain name in a phishing scheme.

The Panel concludes that the Respondent necessarily knew about the Complainant and its affiliates.

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

1. The disputed domain name is confusingly similar to the trademarks of Complainant;
2. Bouygues Construction is a well-known trademark;
3. Domain name has been used for phishing purposes (thereby also using the company name and business address of Complainant in the phishing email);
4. Respondent has registered and used the disputed domain name <bouygues-constructiontp.com> in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BOUYGUES-CONSTRUCTIONTP.COM**: Transferred

PANELLISTS

Name	**Mr. E.J.V.T. van den Broek**

DATE OF PANEL DECISION 2020-04-20

Publish the Decision