# Decision for dispute CAC-UDRP-103458

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| Case number | CAC-UDRP-103458 |
| Time of filing | 2020-12-15 11:21:06 |
| Domain names | sa-bouygues-construction.com |

## Case administrator

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| Organization | Denisa Bilík (CAC) (Case admin) |

## Complainant

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| Organization | BOUYGUES |

## Complainant representative

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| Organization | Nameshield (Enora Millocheau) |

## Respondent

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| Name | BOUCHON MARLENE |

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of numerous trademarks BOUYGUES, including
- International trademark BOUYGUES n°390770 registered since September 1st, 1972;
- International trademark BOUYGUES n°390771 registered since September 1st, 1972;
- International trademark BOUYGUES n°949188 registered since September 27th, 2007.

The Complainant is also the owner of several trademarks BOUYGUES CONSTRUCTION, including International trademark BOUYGUES CONSTRUCTION n°732339 registered since April 13th, 2000.

The Complainant also owns, through its subsidiary, a number of domain names including the same distinctive wording BOUYGUES CONSTRUCTION® such as <bouygues-construction.com>, registered since May 10th, 1999.

FACTUAL BACKGROUND

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

Founded by Francis Bouygues in 1952, BOUYGUES S.A. (the Complainant) is a diversified group of industrial companies structured by a strong corporate culture. Its businesses are centered on three sectors of activity: construction, with Bouygues Construction, Bouygues Immobilier, and Colas; and telecoms and media, with French TV channel TF1 and Bouygues Telecom. Operating in 92 countries, the Complainant's net profit attributable to the Group amounted to 1,184 million euros.

Its subsidiary BOUYGUES CONSTRUCTION is a world player in the fields of building, public works, energy, and services.

As a global player in construction and services, BOUYGUES CONSTRUCTION designs, builds and operates buildings and structures which improve the quality of people's living and working environment: public and private buildings, transport infrastructures and energy and communications networks.

The disputed domain name <sa-bouygues-construction.com> was registered on July 30th, 2020 and resolves to a parking page with commercial links.

PARTIES CONTENTIONS

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

According to Paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements to obtain an order that the disputed domain name should be transferred or cancelled:

(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.

The Panel has examined the evidence available to it and has come to the following conclusion concerning the satisfaction of the three elements of paragraph 4(a) of the Policy in these proceedings:

RIGHTS

The disputed domain name <SA-BOUYGUES-CONSTRUCTION.COM> is confusingly similar to the Complainant's Trademarks, company name and domain. This finding is based on the settled practice in evaluating the existence of a likelihood of confusion of

a) disregarding the top-level suffix in the domain name (i.e. ".com"), and

b) not finding that the inverse addition of descriptive or generic elements such as the Complainant's legal form (S.A. for "SOCIETE ANONYME") in the domain name and placing it at the beginning of the domain name would be sufficient to distinguish the disputed domain name from a trademark. Even if such reversal were to be of relevance, the element S.A. is descriptive of the legal nature of the company and is therefore generic. The remainder of the disputed domain name is identical to the mark "BOUYGUES CONSTRUCTION" and contains the distinctive element of the marks "BOUGUYES".

Therefore, the Panel concludes that the Complainant has satisfied the requirement under Paragraph 4(a)(i) of the Policy.

NO RIGHTS OR LEGITIMATE INTERESTS

The onus to make out a prima facie case that the Respondent lacks rights or legitimate interests is placed on the Complainant. However, once such prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the disputed domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy (see e.g. WIPO case no. D2003-0455, Croatia Airlines d.d. v. Modern Empire Internet Ltd.).

The Complainant has put forward that the Respondent is not commonly known by the disputed domain name. Neither is the Respondent in any way related to the Complainant. Nor has the Respondent been granted an authorization or license to use the disputed domain name by the Complainant. This has not been contested by the Respondent. Instead, the Respondent failed to provide any information and evidence whatsoever that could have shown that it has relevant rights or legitimate interests in respect of the disputed domain name (within the meaning of Paragraph 4(a)(ii) of the Policy).

Therefore, the Panel concludes that the Respondent did not establish any right or legitimate interest to the disputed domain name (within the meaning of Paragraph 4(a)(ii) of the Policy). The Complainant has therefore also satisfied the requirement under Paragraph 4(a)(ii) of the Policy.

BAD FAITH

The Panel finds that the Complainant has established that the disputed domain name was registered by the Respondent and is being used by the Respondent in bad faith. For this purpose, the Complainant has successfully put forward that prior UDRP panels have established that the trademark BOUYGUES CONSTRUCTION is well-known in decisions such as CAC case No. 101387, BOUYGUES v. Laura Clare <bouygeus-construction.com>.

Additionally, the Complainant has provided prima facie evidence for the fact that the disputed domain name redirects to a parking page with commercial links. The Complainant contends the Respondent has attempted to attract Internet users for commercial gain to his own website on the basis of the Complainant's trademark for its own commercial gain, which is an evidence of bad faith.

Given the reputation of the Complainant and its trademarks, company name and domain as supported by the Complainant's evidence, the Panel concludes that the Respondent was fully aware of the Complainant's trademarks, domain, and company name "BOUYGUES CONSTRUCTIONS" at the time of registering the Disputed domain name <SA-BOUYGUES-CONSTRUCTION.COM>. Therefore, it has been established to the satisfaction of the Panel that the disputed domain name was registered and is being used in bad faith, in order to prevent the Complainant from making proper use of the mark in the

disputed domain name and to attract attention from Internet users using the Complainant's trademarks.

Therefore, the Panel concludes that the Respondent has registered and is using the disputed domain name in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy). The Complainant has therefore also satisfied the requirement under Paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **SA-BOUYGUES-CONSTRUCTION.COM**: Transferred

## PANELLISTS

| Name | **Udo Pfleghar** |
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DATE OF PANEL DECISION 2021-01-18

Publish the Decision