

Decision for dispute CAC-UDRP-104008

Case number	CAC-UDRP-104008
Time of filing	2021-09-06 09:49:53
Domain names	bouygues-construct.com

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
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Complainant

Organization	BOUYGUES
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Complainant representative

Organization	NAMESHIELD S.A.S.
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Respondent

Name	BOUCHON MARLENE
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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 (the "Domain Name").

IDENTIFICATION OF RIGHTS

The Complainant is the owner of numerous trade marks that comprise or incorporate the terms "BOUYGUES", or "BOUYGUES CONSTRUCTION". They include:

- International trade mark No. 390770 for the word mark BOUYGUES registered on 1 September 1972 in classes 6, 19, 37 and 42 and proceeding to grant at least in numerous territories; and
- International trade mark No. 732339 for the word mark BOUYGUES CONSTRUCTION registered on 13 April 2000 in class 37 and proceeding to grant at least in part in numerous territories.

FACTUAL BACKGROUND

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

The Complainant was founded by Francis Bouygues in 1952, and is part of a diversified group of industrial companies. Its businesses are centred 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 over 80 countries, the Complainant's net profit attributable to the Group amounted to 696 million euros. The Group has 58,149 employees.

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

The Domain Name was registered on 25 July 2021 and resolves to a parking page with commercial links. It has also been used in a phishing scheme.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the 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 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 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 Complainant has satisfied the Panel that it has registered trade rights for BOUYGUES and BOUYGUES CONSTRUCTION as word marks. In order to satisfy the first element of the Policy it is usually sufficient for a complainant to show that the relevant mark is "recognizable within the disputed domain name"; as to which see section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition. The Domain Name can only sensibly be read as the words "Bougues Construct" in combination with the ".com" generic Top-Level Domain. "Construct" is an obvious contraction of "Construction". Both of the Complainant's marks are therefore clearly recognizable in the Domain Name.

The Complainant has, therefore, satisfied the Panel that the Domain Name is confusingly similar to its trade marks and has thereby made out the requirements of paragraph 4(a)(i) of the Policy.

The Panel also accepts that the Domain Name has been registered and is being used to falsely impersonate the Complainant, and with a view to sending emails purporting to come from the Complainant when they do not, as part of some phishing scheme or other scam. The Complainant has provided clear evidence of this in the form of emails that purport to

come from the Complainant, when they have not.

There are no rights or legitimate interests in holding a domain name for the purpose of engaging in such fraudulent impersonation. Further, the registration and use of a domain name for such a purpose involves registration and use in bad faith (see, for example, Vestey Group Limited v. George Collins, WIPO Case No. D2008-1308). The Complainant has therefore made out the requirements of paragraph 4(a)(ii) and 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. **BOUYGUES-CONSTRUCT.COM**: Transferred

PANELLISTS

Name	Matthew Harris
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DATE OF PANEL DECISION 2021-10-01

Publish the Decision