Decision for dispute CAC-UDRP-101278

Case number	CAC-UDRP-101278
Time of filing	2016-08-23 12:21:33
Domain names	BOUYGUES-UK.NET

Case administrator

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

Complainant

Organization	BOUYGUES

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Name	OLIVIER CRILLON

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 international trade marks for the mark BOUYGUES, which include No. 390771, registered on 1 September 1972 in classes 06, 19, 37 and 42.

FACTUAL BACKGROUND

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

The Complainant ,Bouygues SA, was founded by Francis Bouygues in 1952. It is a diversified industrial group, organized around the sectors of construction (Bouygues Construction, Bouygues Immobilier, and Colas); telecoms (Bouygues Telecom) and media (TF1).

The Complainant is the owner of several international trade marks for BOUYGUES.

The Complainant also owns a number of domain names that include the distinctive word BOUYGUES.

The disputed domain name <bouygues-uk.net> was registered by the Respondent on 18 July 2016.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:
Rights
The Complainant submits that:
i. The disputed domain name <bouygues-uk.net> is confusingly similar to its trade mark BOUYGUES.
ii. The disputed domain name contains the Complainant's trade mark in its entirety and that adding "UK" is purely descriptive as it commonly stands for the United Kingdom.

No rights or legitimate interest

The Complainant states that:

i. The Respondent is not affiliated with, nor authorised by, the Complainant in any way.
ii. The Respondent has no right or legitimate interest in the disputed domain name and is not related in any way to the Complainant's business.
iii. The Complainant does not carry out any activity for, nor has any business with the Respondent.
iv. The website using the disputed domain name <bouygues-uk.net> redirects to an inactive page.
v. The Respondent has registered the disputed domain name <bouygues-uk.net> with the sole aim to prevent the Complainant registering it, which can be considered has passive retention. (See WIPO - DAU2013-0005 - Cobb International Limited v. Cobb Australia & New Zealand (Pty) Ltd).

Registered and used in bad faith

The Complainant states that:
i. The disputed domain name is confusingly similar to its trade mark BOUYGUES, and contains the Complainant's trade mark in its entirety.
ii. Given the distinctiveness of the Complainant's trade marks and reputation, it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's trade marks.
iii. The website using the disputed domain name has been inactive since its registration. The incorporation of a famous mark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use.

RESPONDENT:
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

Paragraph 4 (a) of the Policy requires the Complainant to prove each of the following three elements:

(i) The disputed domain name is identical or confusingly similar to a trade mark or service mark in which the Complaint has rights.
(ii) The Respondent has no rights or legitimate interests in the domain name.
(iii) The domain name has been registered and used in bad faith.

A. Rights

The Panel is satisfied that the Complainant is the owner of trade mark registrations for the mark BOUYGUES that predates the registration of the disputed domain name.

The generic top level suffix .net can be disregarded when considering whether a disputed domain name is confusingly similar to a trade mark in which the Complainant has rights.

The addition of the hyphen and "UK" does not avoid the conclusion that the disputed domain name is confusingly similar to the Complainant’s mark BOUYGUES.

B. No rights of legitimate interest

The Complainant has made out a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name. The burden of proof shifts to the Respondent to show that he has rights or legitimate interests in the disputed domain name.

The Respondent has not filed a Response and has failed to submitted evidence of any legitimate use of the disputed domain.

The Panel finds that the Respondent has no rights or legitimate interest in the disputed domain

C. The domain name has been registered and used in bad faith.

The Registrar verification for the disputed domain name states that:

"The domain and associated hosting account were cancelled due to a failure to pass our internal fraud checks. We have had to un-delete the domain registration to make it available for the UDRP Proceedings".

The Registrar verification goes on to say that the contract information for the Respondent may also be fictitious.

The Complainant's mark BOUYUES is distinctive and given its reputation it is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainant's mark.

The disputed domain name is inactive. The Respondent has not filed a response nor provided any evidence of any actual or contemplated good faith use by it of the disputed domain name.

Taking all these matters into consideration the Panel finds that the disputed domain name has been registered and used 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-UK.NET**: Transferred

PANELLISTS

Name	**Mrs Veronica Bailey**

DATE OF PANEL DECISION 2016-10-06

Publish the Decision