

## Decision for dispute CAC-UDRP-104354

Case number CAC-UDRP-104354

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Time of filing 2022-02-14 09:01:30

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Domain names bouyguess-uk.com

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### Case administrator

Organization Iveta Špiclová (Czech Arbitration Court) (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 Mr Bag

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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.

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#### IDENTIFICATION OF RIGHTS

The Complainant owns the following trademark registrations for BOUYGUES that predate the registration of the disputed domain name:

- International trademark, registered number 390771, registered on 1 September 1972.
  - French trademark, registered number 1197244, registered on 4 March 1982.
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#### FACTUAL BACKGROUND

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

The Complainant is a diversified group of industrial companies operating in over 80 countries. Its operations include telecoms, media and construction. It owns registered trademarks for BOUYGUES that predate the registration of the disputed domain name. Its subsidiary BOUYGUES UK operates in the United Kingdom in the sectors of building, infrastructure and industry. Bouygues Construction SA owns the domain name <bouyguess-uk.com>, registered since 24 January 2002.

The Respondent registered the disputed domain name on 7 February 2022, using a privacy service. The disputed domain name resolves to a parking page with commercial links.

The Respondent has not filed a response nor disputed any of the Complainant's assertions.

#### 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

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 Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in the disputed domain name; and
- (iii) the disputed domain name has been registered and used in bad faith.

#### A. IDENTICAL OR CONFUSINGLY SIMILAR

The Complainant contends that the disputed domain name is confusingly similar to its trade mark, BOUYGUES.

The disputed domain name is made up of the Complainant's trademark, BOUYGUES, plus an additional letter "s", a hyphen, the letters "uk" and the suffix ".com". It is generally accepted that the top-level suffix ".com" is a standard registration requirement. It adds no distinctiveness to a domain name and can be disregarded when assessing whether the disputed domain name is confusingly similar to the Complainant's trademark.

It is well-established that 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). Adding the letter "s", a hyphen and the geographic abbreviation "uk" (for "United Kingdom") to the name BOUYGUES is not sufficient to change the overall impression that the disputed domain name is connected to the Complainant's trademark.

The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark BOUYGUES and that the requirements of paragraph 4(a)(i) of the Policy have been met.

#### B. NO RIGHTS OR LEGITIMATE INTEREST IN THE DISPUTED DOMAIN NAME

The Complainant asserts that the Respondent has no rights or legitimate interest in the disputed domain name and says that:

- (i) the Respondent is not identified in the Whois database as the disputed domain name nor commonly known by that name;
- (ii) the Respondent is not affiliated with nor authorised by the Complainant in any way, and has no business with, nor carries out any activity for, the Complainant;
- (iii) the Respondent is not licensed to use the Complainant's trademark, BOUYGUES, or apply for registration of the disputed domain name by the Complainant; and
- (iv) the disputed domain name resolves to a parking page with commercial links, which past panels have found it is not a bona fide offering of goods or services nor a legitimate non-commercial or fair use.

The Complainant has made out a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent now carries the burden of demonstrating that it has rights or legitimate interest in the disputed domain name. (See WIPO Case No. D2003-0455, Croatia Airlines d.d. v. Modern Empire Internet Ltd.).

The Respondent has not filed a Response, nor submitted any evidence to show he has any rights or a legitimate interest in the disputed domain name. The Respondent is not commonly known by the disputed domain name and is not authorised to use the Complainant's trade mark. He has used a privacy service to register the disputed domain name which resolves to a parking page with commercial links. There is no indication that he is using the disputed domain name for a bona fide offering of goods or services or for legitimate non-commercial or fair use purposes.

Taking the above factors into consideration the Panel finds that the Respondent has no rights or legitimate interest in the disputed domain name and that the requirements of paragraph 4(a)(ii) of the Policy have been met.

#### C. REGISTERED AND BEING USED IN BAD FAITH

The Complainant asserts that the disputed domain name has been registered and is being used in bad faith.

The Complainant and its subsidiaries operate in 80 countries around the world and its trademark BOUYGUES is well-known. The Complainant's trademarks pre-date the registration of the disputed domain name, which is confusingly similar to the Complainant's mark. There appears no reason why the Respondent would register the disputed domain name other than to create a likelihood of confusion with the Complainant's and its trademark. The Panel finds that the disputed domain name was registered in bad faith.

The disputed domain name resolves to a parking page with commercial links. The Complainant's subsidiary uses the domain name <bouygues-uk.com> for its official website. The similarity between that name and the disputed domain name appears to be a deliberate attempt by the Respondent to attract internet users to his website for commercial gain by creating a likelihood of confusion with the Complainant and its mark.

The Panel concludes that the disputed domain name was both registered and is being used in bad faith and that the

requirements of paragraph 4(a)(iii) of the Policy have been met.

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FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

**Accepted**

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

1. **BOUYGUESS-UK.COM**: Transferred

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## **PANELLISTS**

Name	<b>Veronica Bailey</b>
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DATE OF PANEL DECISION **2022-03-13**

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Publish the Decision

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