

Decision for dispute CAC-UDRP-105099

Case number	CAC-UDRP-105099
Time of filing	2022-12-29 10:13:17
Domain names	bouyguetravauxpublicsfr.com

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

Organization	WARREN AOUMMEUR
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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.

IDENTIFICATION OF RIGHTS

The Complainant is, inter alia, proprietor of the International Registration BOUYGUES TRAVAUX PUBLICS n° 1234824 registered since September 22nd, 2014 for services in classes 37 and 42 and extended to several countries. The mark is in effect.

FACTUAL BACKGROUND

Founded by Francis Bouygues in 1952, the Complainant is a diversified group of industrial companies. Its businesses are centered on four sectors of activity: construction and services, media and telecoms. Operating in over 80 countries, the Complainant's net profit attributable to the Group amounted to 1,125 million euros.

Its subsidiary BOUYGUES CONSTRUCTION is a world player in the fields of building, public works, energy, and services. BOUYGUES TRAVAUX PUBLICS, one of its own subsidiaries, is an expert in complex projects involving tunnels, engineering structures and road, port and rail infrastructures. Operating in France and many other countries, the entity has acknowledged expertise in managing large-scale projects with high added value and in setting up PPP projects.

The Complainant is also the owner of several trademarks BOUYGUES®, such as the international trademark BOUYGUES® n° 390771 registered since September 1st, 1972 and the French trademark BOUYGUES® n° 1197244 registered since March 4th, 1982.

The Complainant also owns, through its subsidiary, a number of domain names including the same distinctive wording BOUYGUES TRAVAUX PUBLICS® such as <bouygues-travaux-publics-region.com>, registered since July 6th, 2010.

The disputed domain name <bouyguetravauxpublicsfr.com> was registered on March 18th, 2022 and resolves to a page under construction. Besides, it has been used in a phishing scheme. A person, under an email address of the disputed domain name attempted to pass of as one of Complainant's employees. The WHOIS of the disputed domain name did initially not show any details of the registrant.

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

The Complainant has established the fact that it has valid trademark rights for BOUYGUES TRAVAUX PUBLICS in classes 37 and 42 in several countries.

The disputed domain name is confusingly similar to the BOUYGUES TRAVAUX PUBLICS mark of the Complainant since the TLD „.com“ and the geographical identifier „fr“ being descriptive and the missing letter „S“ at the end of the element BOUYGUES of Complainant's mark cannot be considered as relevant to influence the overall impression of the domain name respectively avoid a high confusing similarity.

The Panel therefore considers the domain name to be confusingly similar to the trademark BOUYGUES TRAVAUX PUBLICS in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

The Respondent has no rights in the disputed domain name since the Respondent is not a licensee of the Complainant nor has the Complainant granted any permission or consent to the Respondent to use its trademarks. Furthermore, the Respondent has no legitimate interest in the domain name since there is no indication that the Respondent is commonly known by the name “BOUYGUES” or „bouyguetravauxpublicsfr.com“ nor that the Respondent is using the domain name in connection with a *bona fide* offering of related goods or services.

The Panel therefore finds that the respondent does not have rights or legitimate interests in the disputed domain name.

The disputed domain name was not resolving to an active website at the time of filing. However, the consensus view amongst panellists since the decision Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003, <telstra.org> is that “the apparent lack of so-called active use (e.g., to resolve to a website) of the domain name without any active attempt to sell or to contact the trade mark holder (passive holding), does not as such prevent a finding of bad faith. The panel must examine all the circumstances

of the case to determine whether the respondent is acting in bad faith. Examples of what may be cumulative circumstances found to be indicative of bad faith include that no response to the complaint is filed, the registrant's concealment of its identity and the implausibility of any good faith use to which the domain name may be put. In the present case, the Panel is convinced that such circumstances are given. Accordingly, the present circumstances do not prevent a finding of bad faith under the UDRP.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **bouyguetravauxpublicsfr.com**: Transferred

PANELLISTS

Name	Dietrich Beier
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DATE OF PANEL DECISION 2023-01-25

Publish the Decision