

Decision for dispute CAC-UDRP-104785

Case number	CAC-UDRP-104785
Time of filing	2022-08-10 09:10:05
Domain names	fr-spiebatignolles.com

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
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Complainant

Organization	SPIE BATIGNOLLES
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Complainant representative

Organization	NAMESHIELD S.A.S.
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Respondent

Name	andre philippe Kloeckle
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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

According to the evidence submitted by Complainant, Complainant is the owner of several trademarks for SPIE BATIGNOLLES, including European Union trademark nr. 003540226 SPIE BATIGNOLLES with date of registration 5 December 2006.

FACTUAL BACKGROUND

According to the evidence submitted by Complainant, Complainant is a French construction company based in Neuilly-sur-Seine. The company provides building and infrastructure construction in France, Germany, the United Kingdom, Spain, Portugal and Switzerland.

The disputed domain name <fr-spiebatignolles.com> was registered on 1 August 2022.
According to the information provided by Complainant the disputed domain name resolves to a parking page with commercial links.

The trademark registration of Complainant has been issued prior to the registration of the disputed domain name.

According to Complainant the disputed domain name is confusingly similar to Complainant's trademarks. The addition of the country geographically descriptive abbreviation "fr" for "France" in the disputed domain name is not sufficient to avoid the likelihood of confusion with the trademarks of Complainant.

According to Complainant, Respondent has no rights or legitimate interest in the disputed domain name. Complainant contends that Respondent is not affiliated with nor authorized by Complainant in any way. Complainant also contends that Respondent is not related in any way to its business. Complainant does not carry out any activity for, nor has any business with Respondent. Neither license nor authorization has been granted by Complainant to Respondent to make any use of Complainant's trademarks or apply for registration of the disputed domain name. Furthermore, the disputed domain name resolves to a parking page with commercial links which does not result in rights or legitimate interest.

According to Complainant the disputed domain name is registered and is being used in bad faith. Respondent has registered the disputed domain name several years after the registration of the trademarks by Complainant. By choosing the country geographically descriptive abbreviation "fr" (which represents Complainant's country), Complainant contends that it is unconceivable that Respondent chose to register the disputed domain name without Complainant and its trademarks in mind. Consequently, Respondent could not have ignored Complainant's trademarks at the moment of the registration of the disputed domain name which cannot be a coincidence.

Furthermore, the disputed domain name resolves to a parking page with commercial links. Complainant contends that Respondent has attempted to attract Internet users for commercial gain to his own website thanks to the Complainant's trademarks for its own commercial gain, which is an evidence of bad faith.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

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 Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

Complainant has, to the satisfaction of the Panel, shown 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

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

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

In the opinion of the Panel the disputed domain name is confusingly similar to Complainant's trademark. Many UDRP decisions have found that a disputed domain name is identical or confusingly similar to a complainant's trademark where the relevant trademark is recognizable within the disputed domain name. Complainant has established that it is the owner of a trademark registration for SPIE BATIGNOLLES. The disputed domain name incorporates the entirety of the well-known SPIE BATIGNOLLES trademark as its distinctive element. The addition of the letters "fr" and the sign "-" in the disputed domain name, is insufficient to avoid a finding of confusing similarity as the SPIE BATIGNOLLES trademark remains the dominant component of the disputed domain name. The Top-Level Domain ("gTLD") ".com" in the disputed domain name may be disregarded.

The Panel notes that Complainant's registration of its trademark predates the creation date of the disputed domain name.

In the opinion of the Panel Complainant has made a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Complainant has not licensed or otherwise permitted Respondent to use its trademark or to register the disputed domain name incorporating its mark. Respondent is not making a legitimate non-commercial or fair use of the disputed domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark of Complainant. Respondent is not commonly known by the disputed domain name nor has it acquired trademark rights. Complainant has no relationship with Respondent. In addition, the use of a domain name to host a parking page consisting of pay-per-click links does not represent a bona offering of goods or services.

Respondent did not submit any response.

Under these circumstances, the Panel finds that Respondent has no rights or legitimate interests in the disputed domain name.

The Panel finds that the disputed domain name has been registered and is being used in bad faith. Complainant has rights in the SPIE BATIGNOLLES trademark. Respondent (who is based in France) knew or should have known that the disputed domain name included Complainant's mark.

The Panel notes the undisputed submission of Complainant that the disputed domain name resolves to a website with automatically generated pay-per-click links leading to various websites. The fact that such links may be generated automatically does not prevent a finding of bad faith. The Panel further notes that the disputed domain name incorporates Complainant's trademark in its entirety, which indicates, in the circumstances of this case, that Respondent registered and used the disputed domain name with the intention to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the trademark of Complainant as to the source, sponsorship, affiliation, or endorsement of its website or location or of a service on its website or location, which constitutes registration and use in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **FR-SPIEBATIGNOLLES.COM**: Transferred

PANELLISTS

Name	Dinant T.L. Oosterbaan
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DATE OF PANEL DECISION 2022-09-08

Publish the Decision
