

Decision for dispute CAC-UDRP-105856

Case number	CAC-UDRP-105856
Time of filing	2023-10-09 09:33:59
Domain names	buoygues-constructions.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	CAT SECURITY LTD
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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 owns numerous trade mark registrations including French combined word and logo trade mark number 1197244, registered on July 30 1982 which prominently features the word BOUYGUES as its dominant element and also an International trade mark registration 732339 for BOUYGUES CONSTRUCTION which was registered on April 13 2000. It also owns a number of domain names that incorporate its BOUYGUES trade mark including <buoygues.com> and <buoygues-construction.com>, the latter having been registered on May 10 1999.

FACTUAL BACKGROUND

The Complainant, based in France, operates in the fields of building and civil works and has subsidiary activities in the fields of cellular telecom, television and in the sectors of energy and services. It is present in over 80 countries and had over 37,6 billion euros in revenues in 2021.

The disputed domain name was registered on August 30 2023 and resolves to a parking page indicating that "This site is temporarily unavailable".

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.

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 owns registered trade mark rights for its BOUYGUES mark and for its BOUYGUES CONSTRUCTION trade mark as set out above. It has submitted that the disputed domain name wholly incorporates a misspelt version of its BOUYGUES mark but that this amounts to an example of typosquatting and is confusingly similar to the Complainant's trade mark registration.

The Panel finds that both the Complainant's BOUYGUES mark and the BOUYGUES CONSTRUCTION mark have been misspelt but otherwise wholly incorporated into the disputed domain name. The misspelling of the Complainant's marks does not change the overall impression given by the disputed domain name that it contains and is connected or affiliated with the Complainant's trade marks. The addition in the disputed domain name of a hyphen or of an "s" does not prevent a finding of confusing similarity. The Panel therefore finds that the disputed domain name is confusingly similar to the Complainant's registered trade marks and that the Complaint succeeds under section 4(a) (i) of the Policy.

The Complainant has submitted that the Respondent is not identified in the Whois database as the disputed domain name and is not commonly known by it. It has also submitted that the Respondent is not affiliated with or authorised by the Complainant in any way and does not carry out any activity or business with it other than having it resolve to a parking page. It has also asserted that the Respondent is neither licensed nor authorised by the Complainant to use its trade marks and that the Respondent therefore has no rights or legitimate interest in respect of the disputed domain name.

In these circumstances the Panel finds that the Complainant has made out a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent has failed to respond to or to rebut the Complainant's case or to explain its conduct in registering the disputed domain name and the Panel finds for this reason that the Complaint succeeds under section 4(a)(ii) of the Policy.

The disputed domain name was registered on August 30, 2023 many years after the registration of the Complainant's trade marks for BOUYGUES and for BOUYGUES CONSTRUCTION. Both of these marks are highly distinctive and the Panel notes that the BOUYGUES name and mark enjoys a significant level of repute, at least in in France and in European business circles. The Panel finds that it is most likely therefore that the Respondent based in the United Kingdom was well aware of the Complainant's BOUYGUES and BOUYGUES CONSTRUCTION marks when it registered the disputed domain name.

The Complainant submits that this case is a classic example of typosquatting in which the disputed domain name is calculated to create confusing similarity between the Complainant's trade mark and the disputed domain name. The Panel agrees with the Complainant in

that the disputed domain name that only differs from the Complainant's registered trade marks as a consequence of misspelling or the addition of the letter "s" or of a commonly used term such as "construction" and is therefore confusingly similar to either of them. In this case the BOUYGUES mark is highly distinctive and very well reputed as is the BOUYGUES CONSTRUCTION mark in France and it appears that the Respondent has registered the disputed domain name with a view to taking advantage of the reputation attaching to the Complainant's BOUYGUES marks.

The disputed domain name resolves to a parking page that indicates that the website is temporarily unavailable. This amounts to a passive holding of the disputed domain name.

Previous panels have found bad faith in circumstances of the passive holding of a disputed domain name where (i) there is a high degree of distinctiveness or reputation of the complainant's mark, (ii) the respondent has failed to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent has concealed its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) it is not plausible that the disputed domain name will be used in good faith.

In this case the Complainant's BOUYGUES mark and its BOUYGUES CONSTRUCTION mark are highly distinctive and are well reputed in France and in European business circles. The Respondent has failed to submit a response or to explain its registration of the disputed domain name. Although the Respondent did not attempt to conceal its identity by using a privacy service this is a classic and blatant case of typosquatting of a well reputed trade mark and it is highly unlikely that the disputed domain name will be used by the Respondent in good faith. Had there been a bona fide explanation for this registration which was made without the Complainant's consent or authorisation then the Respondent has had every opportunity to offer one but has failed to do so.

In these circumstances the Panel finds disputed domain name was registered and has been used passively in bad faith and that the Complaint also succeeds under section 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. **buoygues-constructions.com**: Transferred

PANELLISTS

Name	Mr Alistair Payne (Presiding Panelist)
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DATE OF PANEL DECISION 2023-11-13

Publish the Decision
