

Decision for dispute CAC-UDRP-105899

Case number	CAC-UDRP-105899
Time of filing	2023-10-23 11:23:08
Domain names	spiebatignollesmalet.com

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (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	FREDERIC BARATTERO
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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 relies on the following registered trademarks:

- French registration no. 1494661 for a logo containing the name "Spie Batignolles" registered on 19 October 1988 in classes 1, 4, 6, 7, 8, 9, 11, 12, 16, 17, 19, 28, 35, 37, 38, 39, 40, 41, 42, 45
- International registration no. 535026 for the same logo registered on 17 February 1989 in classes 1, 4, 6, 7, 8, 9, 11, 12, 16, 17, 19, 35, 37, 38, 39, 40, 41 and 42
- EU registration no. 3540226 for a different logo containing the name "Spie Batignolles" registered on 31 October 2003 in classes 1, 2, 6, 19, 37 and 42

FACTUAL BACKGROUND

The Complainant is a construction company based in Neuilly-sur-Seine, France, providing building and infrastructure construction in France, Germany, the UK, Spain, Portugal and Switzerland. In addition to the trademarks identified above, the Complainant has registered the domain names <spiebatignolles.fr>, which locates its website; <spiebatignolles.com>, which redirects to <spiebatignolles.fr>; and <spiebatignollesmalet.fr>, which is not in use.

The Complainant has a subsidiary called Spie Batignolles Malet, which carries out road infrastructure projects

The disputed domain name spiebatignolles.com was registered on 15 October 2023 and is directed to a parking page with commercial links to businesses including businesses that appear to be engaged in construction. MX servers have been configured for it.

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 Panel is satisfied that the Complainant has rights in the registered trademarks identified above as the registered proprietor.

The disputed domain name consists of the dominant feature of the Complainant's registered marks, being the name Spie Batignolles, followed by "malet" and the generic top level domain name suffix, .com. The whole of the second level domain (SLD), including "malet" is the name of a subsidiary of the Complainant. In addition "malet" is the French equivalent of the English "mallet". If the SLD is not understood as the name of a subsidiary of the Complainant, then the word "malet" is descriptive in the relevant context, being the name of a tool widely used in the construction industry, and the disputed domain consists of the dominant feature of the Complainant's registered marks together with descriptive or generic elements. Either way, the disputed domain name is confusingly similar to the Complainant's marks.

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 Panel is satisfied on the undisputed evidence that the Respondent has not used or made preparations to use the disputed domain name or any corresponding name for any bona fide offering of goods or services or for any legitimate non-commercial or fair use.

The Respondent's disputed domain name redirects to a page of sponsored links , including links to competitors of the Complainant, does not constitute a bona fide offering of goods or services. On the contrary, it is a use in bad faith exploiting the confusing similarity of the disputed domain name to the Complainant's marks for commercial gain in the form of click-through commissions.

The Panel is also satisfied that the Respondent is not commonly known by the disputed domain name and that there is no other basis on which it could claim any right or legitimate interest in the disputed domain name.

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 Panel finds on the undisputed evidence that by using the disputed domain name, the Respondent has intentionally attempted to attract Internet users to its web page by creating a likelihood of confusion with the Complainant's mark as to the source of that web page, for commercial gain in the form of click-through commissions.

In accordance with paragraph 4(b)(iv) of the Policy this constitutes evidence of registration and use of the disputed domain name in bad faith. There is no countervailing evidence displacing this presumption. In these circumstances, 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

Disputed domain name consists of the dominant feature of the Complainant's registered marks followed by a descriptive word and the gTLD suffix. The SLD is also the name of a subsidiary of the Complainant. The Respondent's only use has been for a holding page with sponsored links, including to competitors of the Complainant, which the Panel does not regard as a bona fide offering of goods or services. Paragraph 4(b)(iv) of the Policy applied.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **spiebatignollesmalet.com**: Transferred

PANELLISTS

Name	Jonathan Turner
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DATE OF PANEL DECISION 2023-12-01

Publish the Decision