Decision for dispute CAC-UDRP-106267

Case number	CAC-UDRP-106267
Time of filing	2024-02-16 08:50:31
Domain names	bouygues-concession.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	BOUYGUES

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	Christophe Reussite

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 trademark registrations:

- International trademark BOUYGUES n°390771 registered since September 1, 1972;
- French trademark BOUYGUES n° 1197244 registered since March 4, 1982.

FACTUAL BACKGROUND

The Complainant represents a diversified group of industrial companies. Its businesses are centered on three sectors of activity: construction, with Bouygues Construction, Bouygues Immobilier, and Colas; and telecoms and media, with French TV channel TF1 and Bouygues Telecom. Operating in over 80 countries, the Complainant's sales amounted to 44.3 billion euros in 2022.

Besides the registered national trademark BOUYGUES and the international registration of the same denomination, the Complainant owns several domain names which includes the word element "BOUYGUES", such as the domain name <bouygues.com> registered since December 31, 1997.

The disputed domain name <boursobonk.com> was registered on January 23, 2023 and resolves to a parking page.

No information is known about the Respondent who registered the disputed domain name <bouygues-concession.com> under privacy service.

PARTIES CONTENTIONS

COMPLAINANT' CONTENTIONS:

Identical or confusingly similar

The Complainant argues that the disputed domain name <bouygues-concession.com> and the Complainant's registered trademark BOUYGUES and associated domain names are confusingly similar.

Particularly, the Complainant contends that its trademark is fully contained within the disputed domain name and points out that the addition of the generic particle "concession" does not change the overall impression of the designation as being connected to the Complainant's trademark BOUYGUES.

The Complainant also points out that the applicable Top-Level suffix ".com" does not per se prevent likelihood of confusion.

No rights or legitimate interests

The Complainant contends that the Respondent is not affiliated with nor authorized by the Complainant in any way. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant does not carry out any activity for, nor has any business with the Respondent.

Neither license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark BOUYGUES, or apply for registration of the disputed domain name by the Complainant.

The fact that the disputed domain name resolves to a parking page shows, in view of the Complainant, that the Respondent has not used the disputed domain name, and it confirms that Respondent has no demonstrable plan to use the disputed domain name.

Registered and used in bad faith

As far as bad faith registration is concerned, the Complainant states that due to a reputation of the well-known trademark BOUYGUES, which was confirmed in prior domain names' disputes, the Respondents could not be unaware of the Complainant rights over the name BOUYGUES at the time of the disputed domain name registration.

Moreover, the Complainant contends that the Respondent has not demonstrated any activity in respect of the disputed domain name, so that is not possible to conceive of any plausible actual or contemplated active use of the domain name by the Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant's rights under trademark law.

Thus, according to the Complainant, given the distinctiveness of the Complainant's trademarks and its reputation, it is reasonable to infer that the Respondent has registered and used the domain name with full knowledge of the Complainant's trademark.

RESPONDENT'S CONTENTIONS:

The Respondent has not responded to the Complaint.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is confusingly similar to trademark 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 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 15 of the Rules states that the Panel decides a Complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law deemed applicable.

In the case of default by a Party, Rule 14 states that if a Party, in the absence of exceptional circumstances, does not comply with a provision of, or requirement under the Rules, the Panel shall draw such inferences therefrom as appropriate.

In the present case, the Respondent has not submitted any Response and consequently has not contested any of the contentions made by the Complainant.

The Panel proceeds therefore to decide only on the basis of the Complainant's factual statements and the documentary evidence provided in support of them.

1.

The Panel finds that the disputed domain name <bouygues-concession.com> partially reproduces the Complainant's registered trademark "BOUYGUES", given that the disputed domain name fully incorporated the previously registered trademark.

Moreover, the term "concession" (which generates an idea of an authorization granted by the Complainant to the Respondent to provide services under the name "BOUYGUES") does not decrease the level of similarity between the disputed domain name <bouygues-concession.com> and the Complainant's registered trademark "BOUYGUES", the but it rather increases the likelihood of association between the Respondent and the Complainant. In fact, the disputed domain name <bouygues-concession.com> creates a false impression that the Respondent is commercially linked to the Complainant.

Finally, the gTLD ".com", which would usually be disregarded as it is a technical requirement of registration, do not later the overall very similar impression the disputed domain name and the registered trademark produce.

Accordingly, the Panel considers that the disputed domain name and the Complainant's previously registered trademark are confusingly similar and infers that paragraph 4(a)(i) of the Policy is satisfied.

2. According to the Complainant's contentions and evidence submitted within this proceeding, which were not disputed, the Respondent does not appear to be in any way related to the Complainant's business, does not act as the agent of the Complainant nor currently known and has never been known as "BOUYGUES", or any combination of such trademark.

Consequently, and in the absence of a Response, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, so that the requirements of paragraph 4(a)(ii) of the Policy are met.

3. The Panel finds that the Complainant's trademark "BOUYGUES" is inherently distinctive that it is most unlikely the Respondent might have registered the disputed domain name without full knowledge of it.

In view of the above and considering that the disputed domain name resolves to a parking page, it appears that the disputed domain name was chosen and registered solely to attract Internet users to the website under the mistaken belief that they are visiting the Complainant's website or for the subsequent offer of sale of the disputed domain name to the Complainant. Such misleading behavior is indicative of bad faith within the meaning of paragraph 4(b)(iv) of the Policy, on the part of the Respondent.

In other words, in the absence of sufficient evidence to the contrary and rebuttal from the Respondent, the Panel infers the Respondent's activity is indicative of registration and use of the disputed domain name in bad faith.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 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. **bouygues-concession.com**: Transferred

PANELLISTS

Name	**Hana Číslerová**

DATE OF PANEL DECISION 2024-03-22

Publish the Decision