Decision for dispute CAC-UDRP-106361

Case number	CAC-UDRP-106361
Time of filing	2024-03-19 07:53:56
Domain names	bouygues-batiment-ile-des-france.com

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	BOUYGUES

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	Philippe Bernard

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 the owner of several trademarks bearing “BOUYGUES” and “BOUYGUES BATIMENT”, such as:

-International trademark BOUYGUES Reg. No. 390771 registered on September 1, 1972, in classes 06, 19, 37, 42;

-French trademark BOUYGUES Reg. No. 1197244 registered on March 4, 1982, in classes 06, 16, 19, 28, 35, 37, 40, 41, 42, 43, 44, 45;

-European trademark BOUYGUES BATIMENT Reg. No. 1217223 registered on June 23, 1999, in class 37.

FACTUAL BACKGROUND

The Complainant was founded in 1952 by Francis Bouygues and is a diversified industrial group characterised by a strong corporate culture. Its activities are centred on four sectors of activity: Construction, Energy and Services, Media and Telecommunications. It operates in more than 80 countries and its turnover in 2023 totalled 56 billion euros.

The disputed domain name has been registered by the Respondent on March 12, 2024 and resolves to an inactive page.

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

As the Respondent did not file an administratively compliant Response, pursuant to paragraph 14(b) of the Rules, the Panel may draw such inferences therefrom as it considers appropriate. Thus, the Panel accepts the contentions of the Complainant as admitted by the Respondent.

I. The disputed domain name is confusingly similar to the trademark “BOUYGUES BATIMENT” of the Complainant.

The Complainant has, to the satisfaction of the Panel, shown that it has valid rights to the trademark “BOUYGUES BATIMENT”.

The disputed domain name includes the Complainant's trademark in its entirety and the addition “ile des france”.

The addition of the misspelled geographical term "ile des france" (instead of "ile de france"), is not sufficient to escape the finding that the disputed domain name is confusingly similar to the Complainant's trademark and does not change the overall impression of the designation as being connected to the trademark of the Complainant.

On the contrary, the likelihood of confusion is increased because the Complainant's subsidiary is named “BOUYGUES BATIMENT Ile-de-France”.

Also, the addition of the gTLD suffix ".com" is not sufficient to escape the finding that the disputed domain name is identical to the Complainant's trademark and does not change the overall impression of the designation as being connected to the trademarks of the Complainant.

II. The Respondent has no rights or legitimate interests in respect of the disputed domain name within the meaning of the Policy.

The Complainant has established a prima facie proof that the Respondent has no rights or legitimate interests 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 use its trademark in a domain name.

Also, the domain name at stake does not correspond to the name of the Respondent and he is not commonly known as "BOUYGUES BATIMENT Ile des France".

Summarised, there is no evidence for a use of the disputed domain name for any bona fide offer of goods or services or a legitimate non-commercial or fair use.

III. The disputed domain name has been registered and is being used in bad faith within the meaning of the policy.

The Complainant's trademark "BOUYGUES BATIMENT" is widely known. Given the distinctiveness of the Complainant's trademark and reputation, it can be concluded that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademark.

The disputed domain name is also used in bad faith. There is no active use of the disputed domain name in the sense that it leads to an active website. Lack of use of a disputed domain name can amount to use in bad faith in some circumstances. The unlikelihood of bona fide use due to the reputation of the Complainant's mark and the Respondent's failure to file a response or provide evidence of actual or intended bona fide use indicate an intent to hold the disputed domain name for future active use in a manner that competes with or otherwise harms the Complainant.

Therefore, the Panel considers that the domain name is being used in bad faith within the meaning of 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-batiment-ile-des-france.com**: Transferred

PANELLISTS

Name	**Dominik Eickemeier**

DATE OF PANEL DECISION 2024-04-26

Publish the Decision