Decision for dispute CAC-UDRP-106561

Case number	CAC-UDRP-106561
Time of filing	2024-05-23 09:58:00
Domain names	bouygues.construction

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	BOUYGUES

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	jame

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 various trademark registrations for BOUYGUES, including the following:

- International trademark registration no. 390771, registered on September 1, 1972; and
- French trademark registration no. 1197244, registered on March 4, 1982.

The Complainant registered its primary domain name < bouygues.com> on December 31, 1997. The Respondent registered the disputed domain name on May 18, 2024. As at the time of filing of the Complaint, the disputed domain name resolves to an inactive webpage.

FACTUAL BACKGROUND

Complainant is a diversified group of industrial companies centred on four sectors of activity: construction, energy, media, and telecommunications. Operating in over 80 countries, Complainant’s sales amounted to 56 billion euros in 2023. It has about 58,000 employees globally.

Complainant’s subsidiary, Bouygues Construction is a world player in the fields of building, public works, energy, and services. It designs, builds, and operates buildings and structures.

The Respondent is Jame with address at 540 f st, 89415, Hawthorne, nv, USA.

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

1. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires a complainant to show that a domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. The Complainant has provided evidence that it owns registered trademark rights in the word BOUYGUES.

The disputed domain name contains the entirety of the Complainant's BOUYGUES trade mark with no alterations. It is therefore identical to the BOUYGUES trade mark under the Policy (see WIPO Overview 3.0, section 1.7).

The disputed domain name comprises the Complainant's BOUYGUES trade mark and the generic Top-Level Domain ("gTLD") ".construction". It is well established that the gTLD is a standard registration requirement and disregarded when considering the issue of identity or confusing similarity between a complainant's trade mark and the domain name in dispute (see WIPO Overview 3.0, section 1.11.1). In this case though, the Panel notes that not only is the Complainant engaged in the construction industry, but its subsidiary is also known as Bouygues Construction. The disputed domain name including the gTLD ".construction" is therefore wholly identical to the name of the Complainant's subsidiary, and there is therefore an increased risk of confusion to Internet users who may be seeking the construction services of the Complainant or of its subsidiary.

Consequently, the Panel finds that the Complainant has shown that the disputed domain name is identical to a trademark in which the Complainant has rights. The Complainant has met its burden under paragraph 4(a)(i) of the Policy.

2. Rights or Legitimate Interests

Once the complainant establishes a prima facie case that the respondent lacks rights or legitimate interests in the disputed domain name, the burden of production shifts to the respondent to show that it has rights or legitimate interests in respect to the disputed domain name (see WIPO Overview 3.0, section 2.1).

In the present case, the Complainant has demonstrated a prima facie case that the Respondent lacks rights or legitimate interests in respect of the disputed domain name.

The Complainant has provided evidence that it owns trademark rights in the BOUYGUES mark long before the date that the disputed domain name was registered. There is no evidence that the Respondent was licensed or otherwise authorised by the Complainant to use the Complainant's trade mark or to register the disputed domain name. Neither is there evidence that the Respondent is commonly known by the disputed domain name.

The Respondent did not submit a Response and did not provide any explanation or evidence to show rights or legitimate interests in the disputed domain name which would be sufficient to rebut the Complainant's prima facie case.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Panel finds that the Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

3. Registered and Used in Bad Faith

The Complainant must also show that the respondent registered and is using the disputed domain name in bad faith (see Policy, paragraph 4(a)(iii)). Paragraph 4(b) of the Policy provides circumstances that may evidence bad faith under paragraph 4(a)(iii) of the Policy.

Past panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding.

While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put.

The Respondent registered the disputed domain name long after the Complainant registered the BOUYGUES trade mark. Given that the BOUYGUES mark is highly distinctive and famous, with the Complainant's extensive presence and sales turnover across the world, it is not plausible that the Respondent was not aware of the Complainant prior to the registration of the disputed domain name. The Panel finds that the Respondent was probably well aware of the Complainant and its BOUYGUES trade mark at the time of registering the disputed domain name and specifically targeted the Complainant. The choice of the specific combination of the Complainant's BOUYGUES trade mark with the gTLD ".construction" is clearly an attempt by the Respondent to confuse Internet users as the ownership of the disputed domain name and lead Internet users The Panel finds that the composition of the disputed domain name which corresponds to the name of the Complainant's subsidiary is also evidence of bad faith registration. The Panel agrees that one cannot envisage any possibility of any good faith use to which the domain name may be put.

The Respondent failed to submit a response and did not provide any rebuttal arguments or evidence.

Accordingly, having regard to the circumstances of this particular case, the Panel finds that the Complainant has met its burden under 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.construction**: Transferred

PANELLISTS

Name	**Francine Tan**

DATE OF PANEL DECISION 2024-06-18

Publish the Decision