Decision for dispute CAC-UDRP-106974

Case number	CAC-UDRP-106974
Time of filing	2024-10-21 08:35:04
Domain names	bouyguesconstruction-uk.com

Case administrator

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

Complainant

Organization	BOUYGUES

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Organization	FRANCIS DANIEL

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 bases its Complaint on the International trademark registration “BOUYGUES CONSTRUCTION”, No. 732339, registered on 13 April, 2000, for services in class 37.

FACTUAL BACKGROUND

The Complainant was founded by Francis Bouygues in 1952. Currently, its businesses are centered on four sectors of activity: construction, energies and services, media and telecoms. Operating in over 80 countries, the net profit of the Complainant’s group amounted to 1,040 million euros.

The Complainant’s subsidiary BOUYGUES CONSTRUCTION is a world player in the fields of building, public works, energy, and services, having the website www.bouygues-construction.com. This Complainant’s subsidiary designs, builds and operates buildings and structures.

The Complainant owns the International trademark registration BOUYGUES CONSTRUCTION mentioned herein above. Its subsidiary, BOUYGUES CONSTRUCTION S.A. owns the domain name <bouygues-construction.com> registered on May 10, 1999.

The disputed domain name <bouyguesconstruction-uk.com> was registered on October 14, 2024, and at the time when the

Complaint was filed, it resolved to a parking page, while MX servers were configured.

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.

The Complainant's contentions are the following:

The disputed domain name <bouyguesconstruction-uk.com> is confusingly similar to the Complainant's earlier trademark BOUYGUES CONSTRUCTION, that the Respondent lacks rights or legitimate interests in the disputed domain name for a number of reasons and that the disputed domain name was registered and is being used in bad faith.

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

I. Confusing Similarity

The Panel agrees that the disputed domain name <bouyguesconstruction-uk.com> is confusingly similar to the Complainant's earlier BOUYGUES CONSTRUCTION trademark. The disputed domain name incorporates the Complainant’s trademark BOUYGUES CONSTRUCTION in its entirety followed by the addition of a hyphen and of the term UK, which is the abbreviation of the country United Kingdom. This is not sufficient to escape the finding that the domain name is confusingly similar to the Complainant’s trademark and it does not change the overall impression of the designation as being another version of the Complainant’s trademark.

Moreover, the extension “.com” is not to be taken into consideration when examining the similarity between the Complainant’s trademarks and the disputed domain name (WIPO Case No. D2005-0016, Accor v. Noldc Inc.). The mere adjunction of a generic Top Level Domain (“gTLD”) such as “.com” is irrelevant as it is well established that the gTLD is insufficient to avoid a finding of confusing similarity (WIPO Case No. 2013-0820, L’Oréal v Tina Smith, WIPO Case No. D2008-0820 Titoni AG v Runxin Wang and WIPO Case No. D2009-0877, Alstom v. Itete Peru S.A.).

Therefore, the Panel is satisfied that the first condition under the Policy is met.

II. Lack of Respondent's rights or legitimate interests

The Complainant is required to make out a prima facie case that the respondent lacks rights or legitimate interests. Once such

prima facie case is made, the burden of proof shifts to the respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the disputed domain name. If the respondent fails to come forward with such appropriate allegations or evidence, a complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the Policy.

Based on the available evidence, the Respondent does not appear to be identified in the WHOIS database by the disputed domain name.

Based on the available evidence, the Respondent is not affiliated with nor authorized by the Complainant in any way. The Respondent does not carry out any activity for, nor has any business with the Complainant. No license or authorization has been granted to the Respondent to make any use of the Complainant's trademark, or to apply for the registration of the disputed domain name.

At the time when the Complaint was filed, the disputed domain name resolved to a parking page, while MX servers were configured.

Such use does not amount to a bona fide offering of goods or services, or to a legitimate noncommercial or fair use of the disputed domain name.

The Panel notes that the Respondent had an opportunity to comment on the Complaint's allegations by filing a Response, which the Respondent failed to do.

Thus, the Panel is satisfied that the Complainant has at least established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. Accordingly, the Panel takes the view that also the second requirement under the Policy is met.

III. Bad Faith

The Complainant's BOUYGUES CONSTRUCTION trademark predates the registration of the disputed domain name, trademark which is a distinctive one, in addition to the fact that, the Complainant's subsidiary BOUYGUES CONSTRUCTION is a world player in the fields of building, public works, energy, and services. Therefore, the Panel concludes that at the time of registration of the disputed domain name, the Respondent was well aware of the Complainant's BOUYGUES CONSTRUCTION trademark and of its group's activities and business.

In the present case, the following factors should be considered:

(i) the Respondent registered the disputed domain name containing the Complainant's trademark BOUYGUES CONSTRUCTION in its entirety followed by the addition of a hyphen and of the term UK, which is the abbreviation of the country United Kingdom, which may lead the consumers to confusion as it might suggest that this domain name is affiliated to the Complainant or has any relationship with the Complainant, where is not the case;

(ii) at the time when the Complaint was filed, the disputed domain name resolved to a parking page, while MX servers were configured;

(iii) the Respondent failed to submit any response and has not provided any evidence of actual or contemplated good faith use of the disputed domain name.

In light of the foregoing, the Panel concludes that the Respondent has registered and has been using the disputed domain name in bad faith. Thus, also the third and last condition under the Policy is satisfied.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **bouyguesconstruction-uk.com**: Transferred

PANELLISTS

Name	**Delia-Mihaela Belciu**

DATE OF PANEL DECISION 2024-11-26

Publish the Decision