

Decision for dispute CAC-UDRP-107281

Case number	CAC-UDRP-107281
Time of filing	2025-01-31 14:23:39
Domain names	bouyguesconstructionuk.com

Case administrator

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

Organization	BOUYGUES
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Complainant representative

Organization	NAMESHIELD S.A.S.
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Respondent

Name	LUC JAMES
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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 is the owner of the following trademarks:

- BOUYGUES CONSTRUCTION, International registration No. 732339, registered on April 13, 2000 for services in class 37 and designating numerous countries worldwide;
- BOUYGUES CONSTRUCTION, European union registration No. 001589159, registered on May 16, 2001 for services in class 37.

Moreover, through its subsidiary, Bouygues Construction, the Complainant also owns the domain name <bouygues-construction.com>, registered on May 10, 1999.

FACTUAL BACKGROUND

The Complainant is a diversified group of industrial companies founded in 1952 by Francis Bouygues. The Complainant operates in four different fields: construction, energy and services, media and telecommunications. The Complainant employs around 32.500 employees, operates in 80 countries and generated a net profit of 56 billion Euros in 2023. One of the Complainant's subsidiaries is Bouygues Construction, which is a world player in the construction field.

The disputed domain name was registered on January 29, 2025 allegedly by an individual with address in France. The disputed domain name resolves to a parking page with sponsored links. The Respondent has set up mail exchange ("MX") records on the disputed domain name.

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.

In particular, the Complainant maintains that the disputed domain name is confusingly similar to its BOUYGUES CONSTRUCTION mark as it fully incorporates this mark. The addition of the letters "uk", which stand for "United Kingdom" reinforces the risk of confusion as this abbreviation refers to the Complainant's subsidiary's activities in the United Kingdom.

The Complainant further affirms that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent is not affiliated with, nor authorized by, the Complainant in any way. The Complainant does not carry out any activity for, nor has any business with, the Respondent. The Complainant did not authorize the Respondent to make use of its BOUYGUES CONSTRUCTION mark, or to apply for the registration of the disputed domain name. Moreover, the Respondent is not identified by the disputed domain name in the Whois database and does not appear to be commonly known by the disputed domain name. The disputed domain name resolves to a parking page containing sponsored links. This use of the disputed domain name does not amount to a bona fide offering of goods or services, or to a legitimate noncommercial or fair use.

Lastly, the Complainant maintains that the Respondent has registered and is being using the disputed domain name in bad faith. Prior UDRP Panels have recognized that the Complainant's trademark BOUYGUES CONSTRUCTION is well-known. Given the distinctiveness and reputation of the Complainant's trademark it is reasonable to infer that the Respondent registered the disputed domain name with full knowledge of the Complainant's mark. Moreover, the disputed domain name resolves to a parking page containing commercial links. Therefore, in the Complainant's view, the Respondent has attempted to attract Internet users for commercial gain to its own website through the exploitation of the Complainant's mark for its own commercial gain, which is evidence of use in bad faith. Finally, the Complainant points out that the disputed domain name has been set up with MX records, which suggests that it may be actively used for e-mail purposes. This is also indicative of bad faith, as any e-mail use of the disputed domain name cannot be for a good faith purpose.

The Respondent did not file any administratively compliant Response.

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 disputed domain name incorporates the Complainant's trademark followed by the two-letter abbreviation "uk", which stands for "United Kingdom". The Panel finds that the addition of this abbreviation to the Complainant's mark in the disputed domain name cannot preclude a finding of confusing similarity. Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Jurisprudential Overview 3.0", hereinafter the "WIPO Overview 3.0").

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

II. Rights or Legitimate Interests

In view of the almost impossible task for a complainant to prove a negative circumstance, such as the lack of a respondent's rights or legitimate interests in the disputed domain name, requiring information that is often primarily within the knowledge or control of the respondent, UDRP panels have generally established that it is sufficient for a complainant 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 production shifts to the respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the 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 UDRP (see section 21.1 of the WIPO Overview 3.0).

The Complainant has indicated that it does not have any relationship with the Respondent. The Respondent is not an affiliate of the Complainant, nor one of its licensees. The Complainant never authorized the Respondent to make use of the disputed domain name in any manner, including as part of the disputed domain name. Nothing in the case file shows that the Respondent is commonly known by the disputed domain name.

The disputed domain name incorporates the Complainant's mark entirely followed by the geographical abbreviation "uk". Accordingly, the disputed domain name is highly misleading as to its origin or suggests sponsorship or endorsement by the Complainant. Moreover, the disputed domain name resolves to a parking page of the Registrar containing pay-per-click (PPC) links to third parties' websites promoting the same services of the Complainant's subsidiary Bouygues Construction. The use of a domain name to host a parked page comprising PPC links does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the Complainant's mark or otherwise mislead Internet users (section 2.9 of the WIPO Overview 3.0). Moreover, the Respondent is probably deriving an income from each click on the PPC links. Accordingly, the Respondent is not making a noncommercial or fair use of the disputed domain name without intent for commercial gain to misleadingly divert consumers or tarnish the Complainant's mark.

Accordingly, the Panel finds that the Complainant has made a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The burden of proof now shifts to the Respondent to provide arguments or evidence to the contrary. However, the Respondent has chosen not to submit any Response and therefore has failed to prove its rights or legitimate interests in the disputed domain name.

In light of the foregoing, the Panel finds that the Complainant has satisfied the second requirement under the Policy.

III. Bad Faith

In order to prevail in a UDRP proceeding, the Complainant is required to prove that the Respondent registered and is being using the disputed domain name in bad faith.

As far as use in bad faith is concerned, the Panel notes that the Complainant's mark includes the surname of its founder and the word "construction", which refers to one of the Complainant's areas of business. Accordingly, the disputed domain name is distinctive and uniquely associated with the Complainant. Moreover, the Complainant's mark enjoys reputation in its field as also acknowledged by other UDRP panels before. Accordingly, the Respondent was certainly aware of the Complainant and of its BOUYGUES CONSTRUCTION mark when it registered the disputed domain name. The registration of a domain name confusingly similar to an earlier distinctive and well-known registered mark, being aware of such mark and without rights or legitimate interests, amounts to registration in bad faith.

As far as use in bad faith is concerned, the Respondent is probably deriving an income from each click on the sponsored links. Moreover, even if the PPC links displayed on the parking associated with the disputed domain name are automatically generated, the Respondent cannot disclaim responsibility for contents appearing on said parking page. Accordingly, the Panel finds that the Respondent is using the disputed domain name in bad faith, to intentionally attempt to attract, for commercial gain, Internet users to the Respondent's on-line location, by creating a likelihood of confusion with the Complainant's mark.

The Respondent has set up MX records for the disputed domain name, thus permitting to send and receive e-mails under the disputed domain name. The fact that the Respondent could in principle correspond through the disputed domain name is further indication of bad faith, as, in view of the overall circumstances of this case, no plausible good faith use of the disputed domain name is possible.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **bouyguesconstructionuk.com**: Transferred

PANELLISTS

Name **Angelica Lodigiani**

DATE OF PANEL DECISION **2025-03-02**

Publish the Decision