

ADMINISTRATIVE PANEL DECISION

Bouygues SA, Mr. Martin Bouygues v. Ciaran Canning
Case No. D2022-0049

1. The Parties

The Complainants are Bouygues SA, France, and Mr. Martin Bouygues, France, represented by ADVANT Altana, France.

The Respondent is Ciaran Canning, United States of America.

2. The Domain Name and Registrar

The disputed domain name <martinbouygues.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 6, 2022. On January 6, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 7, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on January 10, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on February 17, 2022.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on February 22, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 14, 2022. The Respondent sent two informal emails to the Center on February 8, 2022, one informal email on February 9, 2022, and another informal email on March 15, 2022.

The Center appointed Steven A. Maier as the sole panelist in this matter on March 18, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and

Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

For reasons that will be apparent from its findings below, the Panel is satisfied that both the named Complainants have a specific common grievance against the Respondent, that the Respondent has engaged in common conduct that has affected the Complainants in a similar fashion, and that it would be equitable and procedurally efficient to permit the consolidation of both Complainants' complaints (see section 4.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)")).

4. Factual Background

The Complainant Bouygues SA is a public limited company registered in France. It is the holding company of subsidiaries which are active in sectors including telecoms, construction, real estate, and media.

The Complainant Martin Bouygues is the Chairman and Chief Executive Officer ("CEO") of Bouygues SA.

The Complainant Bouygues SA is the owner of numerous trademark registrations for or incorporating the name BOUYGUES, including for example France trademark registration number 92408370 for the word mark BOUYGUES, registered on March 3, 1992, for goods and services in numerous International Classes.

The disputed domain name was registered on October 17, 2021.

The Complainants submit that the disputed domain name has not resolved to any active website. At the date of this Decision, however, the disputed domain name resolved to a "parking page" website including links to property and construction services having no apparent connection with the Complainants. The parking page also indicated that the disputed domain name was available for purchase.

5. Parties' Contentions

A. Complainants

The Complainants state that the Bouygues group was founded in 1952 by Francis Bouygues, who was the father of Martin Bouygues. They submit that the group is active in over 90 countries across five continents and exhibit evidence of the group's history, commercial and financial profile, including sales revenues of EUR 35.5 billion in 2017. They refer to their trademark portfolio and also to numerous domain names incorporating the mark BOUYGUES which they use for the purpose of their business, including for example <bouygues.com>.

The Complainants state that Martin Bouygues joined the group in 1974 and became Chairman and CEO in 1989. They provide evidence of his personal business profile and submit that he tripled the group's revenues and was ranked as the world's 6th best performing CEO by Harvard Business Review in 2017.

The Complainants submit that the disputed domain name is confusingly similar to their trademark BOUYGUES. They contend that the addition of the term "martin" to that trademark does not prevent such confusing similarity and serves personally to identify Martin Bouygues, who is internationally well known as the Chairman of the Bouygues group.

The Complainants contend that they also have rights in Martin Bouygues' personal name for the purposes of the Policy, because that personal name is associated with the Complainant's goods and services.

The Complainants submit that the Respondent has no rights or legitimate interests in respect of the disputed domain name. They say that they did not license or permit the Respondent to use their BOUYGUES

trademark, that the Respondent has no independent rights corresponding to the disputed domain name and that the Respondent has not made any *bona fide* commercial use of the disputed domain name.

The Complainants contend that the disputed domain name was registered and is being used in bad faith. They point to the fact that, apart from incorporating their trademark BOUYGUES, the disputed domain name replicates the personal name of Martin Bouygues, who is the Chairman of the Bouygues group. They add that, on the same date that the disputed domain name was registered, the Respondent also registered the domain name <olivierbouygues.com>, which is the subject of separate proceedings under the UDRP. The Complainants say that Olivier Bouygues is the brother of Martin Bouygues and also an executive of the Bouygues Group. The Complainants say that, in the circumstances, it is clear that the disputed domain name was registered in order to target or to damage the Complainant, possibly with an intention of selling it to the Complainant or of defrauding third parties.

B. Respondent

The Respondent did not file a formal Response to the Complainants' submissions. In the various informal emails to the Center referred to above, the Respondent initially questioned why they were receiving communications from the Center and, upon the position being explained, responded, "Thanks for the clarification". After the date for filing a Response had passed, the Respondent sent a further email questioning from whom a Response had been required.

6. Discussion and Findings

In order to succeed in the Complaint, the Complainants are required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainants have rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered or is being used in bad faith.

A. Identical or Confusingly Similar

The Complainants have demonstrated that they are the owner of registered trademark rights in the name BOUYGUES. The disputed domain name wholly incorporates that trademark, preceded by the personal name "martin", which does not prevent the Complainants' trademark from being recognizable within the disputed domain name. The Panel therefore finds that the disputed domain name is confusingly similar to a trademark in which the Complainants have rights.

Concerning the personal name Martin Bouygues, the Panel does not necessarily agree with the Complainants' submission that they have acquired (unregistered trademark) rights in that name for the purposes of the Policy. While there can be no doubt that Martin Bouygues is an internationally well-known business executive, the Panel is not persuaded that Mr Bouygues' personal name has been "used in commerce as a distinctive identifier of the Complainants' goods or services" (see section 1.5 of the [WIPO Overview 3.0](#)). However, in view of the Panel's finding of confusing similarity between the disputed domain name and the Complainants' trademark BOUYGUES, this further matter is immaterial to the outcome of this proceeding.

B. Rights or Legitimate Interests

In the view of the Panel, the Complainant's submissions set out above give rise to a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. However, the

Respondent has failed to file any substantive Response in this proceeding and has not submitted any explanation for their registration and use of the disputed domain name, or evidence of rights or legitimate interests on their part in the disputed domain name, whether in the circumstances contemplated by paragraph 4(c) of the Policy or otherwise. The Panel finds the Respondent's informal email responses, such as they were, to be disingenuous in nature. The Respondent's use of the disputed domain name for a parking page website, which has no apparent connection with the disputed domain name, does not give rise to rights or legitimate interests on the part of the Respondent and the Panel therefore finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C. Registered and Used in Bad Faith

The Panel finds the Complainants' trademark BOUYGUES to be distinctive of the Complainants and their business and also that the disputed domain name is identical to the personal name of Martin Bouygues, who is widely known to be the Chairman and CEO of the Complainants' group. The Panel also notes the Respondent's registration of the domain name <olivierbouygues.com> concurrently with their registration of the disputed domain name and notes that Oliver Bouygues is the brother of Martin Bouygues and also an executive of the Bouygues group. There can be no serious doubt in the circumstances that the Respondent registered the disputed domain name with the Complainants' BOUYGUES trademark in mind and with the intention of taking unfair advantage, in some manner, of the Complainants' goodwill connected with that trademark. Further, the Panel finds the disputed domain name to be inherently misleading, as inevitably suggesting to Internet users that it has some legitimate connection with the Complainants. The Panel can therefore conceive of no legitimate use to which the Respondent could put the disputed domain name and finds in the circumstances that the disputed domain name was registered and is being used in bad faith.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name, <martinbouygues.com>, be transferred to the Complainant.

/Steven A. Maier/

Steven A. Maier

Sole Panelist

Date: March 30, 2022