

ADMINISTRATIVE PANEL DECISION

BOUYGUES v. Name Redacted

Case No. D2023-5039

1. The Parties

The Complainant is BOUYGUES, France, represented by Cabinet Regimbeau, France.

The Respondent is Name Redacted.¹

2. The Domain Name and Registrar

The disputed domain name <bouyguegroupes.com> is registered with Hosting Concepts B.V. d/b/a Registrar.eu. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 4, 2023. On December 4, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 5, 2023, 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 (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 6, 2023, 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 December 11, 2023.

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”).

¹The Respondent appears to have used the name of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted the Respondent’s name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST- 12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on December 18, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 7, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 10, 2024.

The Center appointed Fabrizio Bedarida as the sole panelist in this matter on January 16, 2024. 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.

4. Factual Background

The Complainant is a leading French company in the fields of building and civil works. The Complainant, present in over 80 countries, was founded in 1952. The Complainant's activities are in three sectors: construction, telecoms and the media. The Complainant has around 200,000 employees worldwide, with revenues of over EUR 37.6 billion in 2021.

The Complainant has numerous registrations for the BOUYGUES trademark around the world.

The Complainant is, *inter alia*, the owner of:

French trademark BOUYGUES (word) registration number 1197243 (first filed on May 4, 1972, registered on July 30, 1982, and then renewed), covering goods and services in Classes 6, 16, 19, 28, 35, 37, 40, 41, 42, 43, 44, and 45;

International trademark BOUYGUES (word) registration number 949188, registered on September 27, 2007, designating Australia, China, Cyprus, Denmark, Estonia, Finland, Greece, Ireland, Japan, Lithuania, Latvia, Poland, Russia, Sweden, Slovenia (duly renewed) and covering goods and services in Classes 6, 19 and 37;

United States of America trademark BOUYGUES (word) registration number 2970089, registered on July 19, 2005, and covering services in Classes 37 and 38.

In addition, the Complainant is the owner of numerous domain names composed, in whole or in part, of the word *boygue/s*, such as:

<bouygues.com>, <bouygues.eu>, <bouygues-group.com>, <bouyguesgroup.com>, and <bouygues-groupe.fr>.

The <bouygues.com> domain name has been registered by the Complainant since 1997.

The disputed domain name was registered on September 3, 2023.

From the submissions provided by the Complainant, it appears that the disputed domain name resolved (at least on November 22, 2023) to a parking page, which promoted and redirected to third-party websites, some of them in the same fields of activity as the Complainant (i.e., building construction, telecoms, media).

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to the BOUYGUES trademark, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and particularly that the Respondent showed bad faith when it registered and used the disputed domain name, which redirects to a pay-per-click page hosting third-party links to websites offering services competing with those offered by the Complainant. The Complainant further notes that the Respondent registered the disputed domain name choosing a name almost identical to an employee of the Complainant, for the purpose of impersonating the Complainant in order to make a possible fraudulent use of the disputed domain name. By sending emails through the disputed domain name, the Respondent is intentionally using it in a fraudulent way that creates confusion as to the source, sponsorship, affiliation or endorsement of the disputed domain name.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

In order for the Complainant to obtain a transfer of the disputed domain name, paragraph 4(a) of the Policy requires that the Complainant must demonstrate to the Panel that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has 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 and is being used in bad faith.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the BOUYGUES mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, "groups" may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or

legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for illegal activity, here claimed to be used for impersonating an employee of the Complainant for the purposes of fraud, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Respondent intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's trademark.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

The disputed domain name was registered many decades after the Complainant's trademark was registered. In addition, owing to the substantial presence established worldwide and on the Internet by the Complainant, it is at the least very unlikely that the Respondent was not aware of the existence of the Complainant's trademarks and domain names when registering the disputed domain name.

Therefore, it is more likely than not that the Respondent, when registering the disputed domain name, had knowledge of the Complainant's earlier rights to the BOUYGUES trademark and trade name.

Another factor supporting the conclusion of bad faith registration and use of the disputed domain name is the fact that the Respondent deliberately chose to conceal its identity. In fact, it appears that the Respondent registered the disputed domain name by inappropriately using an almost identical name of an employee of the Complainant, for possible fraudulent use of the disputed domain name.

Panels have held that the use of a domain name for illegal activity, here claimed to be used for impersonating an employee of the Complainant for the purposes of fraud, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel finds that the Complainant has established the third element of the Policy.

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 <bouyguegroupes.com> be transferred to the Complainant.

/Fabrizio Bedarida/

Fabrizio Bedarida

Sole Panelist

Date: January 25, 2024