

## **ADMINISTRATIVE PANEL DECISION**

Bouygues SA v. Laurent John  
Case No. D2024-1467

### **1. The Parties**

The Complainant is Bouygues SA, France, represented by Altana Law firm, France.

The Respondent is Laurent John, United Kingdom.

### **2. The Domain Name and Registrar**

The disputed domain name <bouyguesgroups.com> is registered with IONOS SE (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 8, 2024. On April 8, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 9, 2024, 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 April 12, 2024, 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 April 15, 2024.

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 April 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 8, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 20, 2024.

The Center appointed Frank Schoneveld as the sole panelist in this matter on May 27, 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

Bouygues SA (“the Complainant”) is a public limited company (“société anonyme” in French). Its registered office is located in France. It is the parent company of a large group of companies with over 200,000 employees and with a presence in over 80 countries worldwide, notably also in the United Kingdom. It has businesses in four main sectors of activity namely in construction, energy and services, media, and telecoms.

The Complainant provides evidence of a large number of registrations by the Complainant of the BOUYGUES trademark including registration internationally since 1972 in numerous European and African countries, and since 1993 and 2005 respectively in Canada and the United States of America (“USA”). These are:

Trademark Registration Identifier	Registration Date	Trademark
No. 390771	September 1, 1972	International
No. 1197243	March 4, 1982	France
No. TMA408286	February 19, 1993	Canada
No. 2970089	July 19, 2005	USA

The Complainant is the registered holder of the domain name <bouyguesgroup.com> since February 3, 2000 and of the domain name <bouyguesgroupe.com> since December 8, 2016.

The disputed domain name has been used to send emails to business associates of the Complainant in three European countries with the emails including at the end of the electronic signature and in the information of the sender: “[name of managing director of the Complainant]@bouyguesgroups.com ... https://www.bouygues.com/ ...”. At least one of these emails were purportedly signed on behalf of the Managing Director of the Complainant and included the abovementioned alternative domain name that has since 2000 been registered and used by the Complainant for its business.

The disputed domain name <bouyguesgroups.com> was registered on March 8, 2024. There is currently no website to which the disputed domain name resolves so a blank page only appears when attempting to access a website at the disputed domain name.

#### 5. Parties’ Contentions

##### A. Complainant

The Complainant contends that the disputed domain name consists of the Complainant’s trademark with an additional term, which does nothing to avoid confusing similarity so the term “bouygues” will be thus easily identified and will be the first word a consumer will perceive of the disputed domain name. The Complainant submits that the Respondent has no rights or legitimate interests in the disputed domain name, and the Complainant has not licensed or otherwise permitted the Respondent— who is unknown – to use any of its trademarks or to apply for any domain name incorporating any of its trademarks, and that the Respondent is not making a fair use, a noncommercial use, as well as no actual or contemplated bona fide or legitimate use of the disputed domain name. The Complainant contends that the Respondent registered and used the disputed domain name in bad faith, that the Respondent was fully aware of the existence of the Complainant when he/it acquired the disputed domain name, and the Respondent has been using the disputed domain

name in a fraudulent email scheme impersonating the Complainant. The Complainant concludes that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **A. Identical or Confusingly Similar**

The Complainant contends that the disputed domain name <bouyguesgroups.com> wholly incorporates the Complainant's trademark BOUYGUES in the disputed domain name.

It is well accepted that the first element (i.e. identical or confusingly similar to the Complainant's trademark) 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's numerous registrations of its BOUYGUES trademark since at least 1972 shows rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. The entirety of the trademark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of another term "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 trademark 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.

The Respondent's name or other aspect of the information available regarding the Respondent does not indicate the Respondent might have a right or legitimate interests in the disputed domain name. The Respondent has not been licensed or otherwise permitted by the Complainant (i) to use the Complainant's trademarks (including the part of the disputed domain name that is the Complainant's registered trademark BOUYGUES ", or (ii) to apply for any domain name incorporating any of its trademarks (including its BOUYGUES trademark).

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.

Further, the disputed domain name has been used to send emails purportedly signed on behalf of the Managing Director of the Complainant. Such conduct is clearly an attempt to impersonate a senior company officer of the Complainant likely for a fraudulent purpose. Panels have held that the use of a domain name for illegal activity, as in this case by impersonation or passing off via a fraudulent email scheme, 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**

Panels have found that the non-use of a domain name (including a blank page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although 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, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3.

In this case the Complaint concerns trademarks that have been registered internationally in various jurisdictions since at least 1972, a very similar domain name registered by the Complainant has been used since 2000, and the Complainant has operations in over 80 countries in four prominent business sectors with more than 200,000 employees worldwide. In those circumstances it is unlikely that the Respondent could not have known about the Complainant's rights in the trademarks that form part of the disputed domain name. Also, the Respondent has failed to respond to the serious allegations of misuse of the disputed domain name for likely fraudulent purposes, or to provide any evidence of actual or contemplated good-faith use.

The Respondent does not respond to the serious allegations of misuse of the disputed domain name or to react to the Complainant's allegations that the Respondent has attempted to fraudulently use the disputed domain name to deceive the Complainant's business associates by impersonating in emails the managing director of the Complainant. Further, it appears that the Respondent provided false contact details to the Registrar since the record shows that the written notice could not be delivered to the address disclosed by the Registrar in its verification.

The Panel notes the distinctiveness of the Complainant's trademark, and the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Further, the disputed domain name has been used to send emails to business associates of the Complainant including the electronic signature impersonating the Managing Director of the Complainant. Panels have held that the use of a domain name for illegal activity, here the claimed impersonation/passing off via a fraudulent email scheme, or other types 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 (i.e. bad faith registration and use) 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 <bouyguesgroups.com> be transferred to the Complainant.

*/Frank Schoneveld/*

**Frank Schoneveld**

Sole Panelist

Date: June 11, 2024