

ADMINISTRATIVE PANEL DECISION

BOUYGUES v. Renard Dick

Case No. D2024-1769

1. The Parties

The Complainant is BOUYGUES, France, represented by Nameshield, France.

The Respondent is Renard Dick, France.

2. The Domain Name and Registrar

The disputed domain name <bouygues-batiment-iles-des-france.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 26, 2024. On April 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 29, 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 (1&1 Internet Limited) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 29, 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 29, 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 May 2, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 22, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 27, 2024.

The Center appointed Vincent Denoyelle as the sole panelist in this matter on June 7, 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 following facts are based on the submissions in the Complaint and the Annexes to the Complaint.

The Complainant is a diversified group of companies headquartered in France and active in three main sectors namely construction, telecom, and media.

The Complainant is the owner of several trade marks for BOUYGUES BATIMENT including the following:

- International Registration BOUYGUES BATIMENT n°723515 registered since November 22, 1999; and
- European trade mark BOUYGUES BATIMENT n°001217223 registered since July 25, 2000

The Complainant is also the owner of several domain names reflecting its trade mark such as <bouygues-batiment-ile-de-france.com> in 2008.

The disputed domain name was registered on April 16, 2024, and resolves to a parking page of the Registrar.

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 BATIMENT trade mark in which the Complainant has rights as the disputed domain name incorporates the entire BOUYGUES BATIMENT trade mark with the addition of the terms "iles-des-france" and that such addition to the disputed domain name does not prevent the likelihood of confusion between the disputed domain name and the Complainant's trade mark.

The Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant contends that the Respondent is not commonly known by the disputed domain name given that the Whois information is not similar to the disputed domain name. The Complainant states that the Respondent is not affiliated with the Complainant or authorized by the Complainant in any way to use the Complainant's trade mark. The Complainant also states that it does not carry out any activity for or has any business with the Respondent. Finally, the Complainant points out that the disputed domain name resolves to a parking page and that the Respondent did not make any use of the disputed domain name since its registration and there is no indication that the Respondent has made any plan to use the disputed domain name.

The Complainant contends that the Respondent has registered the disputed domain name in bad faith, with full knowledge of the Complainant and its trade mark. The Complainant also alleges that the Respondent is using the disputed domain name in bad faith. The Complainant submits that given the renown of the Complainant and its trade marks, no actual or contemplated use of the disputed domain name could reasonably be considered as being in good faith. The Complainant also points to the fact that the disputed domain name has been set up to allow the sending of emails which constitutes a threat hanging over the Complainant's head.

B. Respondent

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

6. Discussion and Findings

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 trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the trade mark BOUYGUES BATIMENT 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 other terms here, "iles-des-france", may bear on assessment of the second and third elements, the Panel finds the addition of such terms 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.

The Complainant has stated that it does not know the Respondent and that it has not licensed or otherwise authorized the Respondent to make any use of its trade mark BOUYGUES BATIMENT. There is no indication that the Respondent is commonly known by the disputed domain name. Given the significant renown of the Complainant (especially in the country of residence of the Respondent), it is inconceivable that the Respondent could substantiate any actual or contemplated bona fide or legitimate use of the disputed domain name. Furthermore, the nature of the disputed domain name, comprising the Complainant's trade

mark in its entirety in combination with the terms “iles-des-france” – a misspelling of “ile de France” (the Paris region), carries a risk of implied affiliation. See section 2.5.1 of the [WIPO Overview 3.0](#).

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.

Given the circumstances described in the Complaint and the evidence provided by the Complainant, the Panel finds that the disputed domain name was registered in bad faith.

The disputed domain name reproduces the exact BOUYGUES BATIMENT trade mark of the Complainant and this cannot be a coincidence given the overall circumstances of the present case including (i) the renown of the Complainant and its trade mark, (ii) the fact that the Respondent appears to be based in France where the Complainant is headquartered and where its renown is higher than anywhere else, (iii) the fact that the disputed domain name is almost identical to the domain name <bouygues-batiment-ile-de-france.com> registered by the Complainant in 2008 and (iv) the fact that the disputed domain name was registered relatively recently and many years after the registration of the trade mark BOUYGUES BATIMENT.

Thus, the Panel finds that the disputed domain name was registered in bad faith.

Panels have found that the non-use of a domain name 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.

Having reviewed the available record, the Panel notes the distinctiveness and reputation of the Complainant's trade mark, the composition of the disputed domain name, the activation of MX records for 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.

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 <bouygues-batiment-iles-des-france.com> be transferred to the Complainant.

/Vincent Denoyelle/

Vincent Denoyelle

Sole Panelist

Date: June 21, 2024