

ADMINISTRATIVE PANEL DECISION

BOUYGUES v. Pierre Roudaut

Case No. D2024-4727

1. The Parties

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

The Respondent is Pierre Roudaut, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <uk-bouygues.com> (the “Disputed Domain Name”) is registered with Register SpA (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 15, 2024. On November 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On November 18, 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 November 18, 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 November 18, 2024.

On November 18, 2024, the Center informed the parties in French and English, that the language of the registration agreement for the Disputed Domain Name is French. On November 18, 2024, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

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 in French and English, and the proceedings commenced on November 21, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 11, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 12, 2024.

The Center appointed Flip Jan Claude Petillion as the sole panelist in this matter on December 23, 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, BOUYGUES, is a French group of industrial companies that operates in the construction, telecom and media sectors.

The Complainant is the owner of the following trademarks:

- BOUYGUES, international figurative mark No. 390771, registered on September 1, 1972 in classes 6, 19, 37 and 42:



- BOUYGUES, French figurative mark No. 1197244, registered on March 4, 1982 in classes 6, 16, 19, 28, 35, 37, 40, 41, 42, 43, 44 and 45:



The Complainant also owns several domain names including the domain name <bouygues-uk.com> registered on January 24, 2002.

The Disputed Domain Name was registered on November 13, 2024. The Disputed Domain Name resolves to a parking page of the Registrar's group.

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 trademarks in which it claims to have rights.

The Complainant further claims that the Respondent has no legitimate interests in respect of the Disputed Domain Name as the Respondent:

- is not known by the Disputed Domain Name and has not acquired trademarks;
- is not affiliated with the Complainant nor authorized to use its trademarks;
- did not make any bona fide use of the Disputed Domain Name since its registration, or has any demonstrable plan to do so.

Finally, the Complainant claims that the Disputed Domain Name was registered and is being used in bad faith. According to the Complainant:

- the addition of the term “uk” to the term BOUYGUES refers to the Complainant's subsidiary;
- given the distinctiveness of the Complainant's trademarks and reputation, it is reasonable to infer that the Respondent has registered the Disputed Domain Name with full knowledge of the Complainant's trademarks;
- the Respondent has not demonstrated any activity in respect of the Disputed Domain Name, and it is not possible to conceive of any plausible actual or contemplated active use of the Disputed Domain Name by the Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant's rights under trademark law;
- the Disputed Domain Name has been set up with mail exchange (“MX”) records which suggests that it may be actively used for email purposes.

B. Respondent

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

6. Discussion and Findings

6.1. Preliminary procedural issue: Language of the Proceeding

The language of the registration agreement for the Disputed Domain Name is French. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that:

- the Disputed Domain Name is formed by the Complainant's trademark with the term “uk” (short for United Kingdom) which may indicate that the Disputed Domain Name is intended for British users;
- according to the Registrar's information, the Respondent has its registered address in the United Kingdom which may indicate that the Respondent knows and reads English.

The Respondent did not make any specific submissions with respect to the language of the proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 4.5.1.

The Panel observes that the Respondent was made aware of the present proceedings with both English and French communications from the Center and did not reply. By accepting the terms and conditions of the registration agreement in French and by the Center's communication, the Respondent was sufficiently informed about the content of these administrative proceedings. The fact that the Respondent did not reply to any of the communications sent by the Center indicates that the Respondent deliberately opted for not taking part in the proceedings and chose not to use its right to defend itself. In such circumstances, the

Panel finds that it would be a disadvantage for the Complainant to be forced to translate the Complaint. As the Respondent had ample chance to defend itself but elected not to do so, the rights of the Respondent to defend itself and the right to equal treatment are guaranteed. See *INTS IT IS NOT THE SAME, GmbH (dba DESIGUAL) v. Two B Seller, Estelle Belouzard*, WIPO Case No. [D2011-1978](#).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

6.2. Substantive elements of the Policy

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 (textual elements of the) Complainant's trademark and the Disputed Domain Name.

[WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds 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 observes that the entirety of the textual elements of the BOUYGUES mark is reproduced within the Disputed Domain Name. In such cases, the domain name will normally be considered confusingly similar to the incorporated mark for purposes of UDRP standing. [WIPO Overview 3.0](#), section 1.7.

Additionally, the Panel finds that the addition of a hyphen and another term – here, “uk” – 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.

It is well established that generic Top-Level-Domains (“gTLDs”), here “.com”, may be disregarded when considering whether the Disputed Domain Name is confusingly similar to a trademark in which the Complainant has rights.

Based on the available record, the Panel finds that 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 Panel notes that the Respondent has not apparently been commonly known by the Disputed Domain Name, and that the Respondent does not seem to have acquired any related trademark or service mark rights. According to the information provided by the Registrar, the Respondent is “Pierre Roudaut”. The Respondent’s use and registration of the Disputed Domain Name was not authorized by the Complainant.

Fundamentally, a respondent’s use of a domain name will not be considered “fair” if it falsely suggests affiliation with the trademark owner. The correlation between a domain name and the complainant’s mark is often central to this inquiry. Even where a domain name consists of a trademark plus an additional term, such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. [WIPO Overview 3.0](#), section 2.5.1.

The Disputed Domain Name incorporates the textual elements of the Complainant’s BOUYGUES trademark in its entirety and merely adds a hyphen and the term “uk”. In the Panel’s view, this combination may even increase the risk of confusion with the Complainant as it can easily be considered as referring to a UK (United Kingdom) website of the Complainant’s group, or be confused with the domain name <bouygues-uk.com> operated by the Complainant’s group. Therefore, the Panel finds that the Disputed Domain Name carries a risk of implied affiliation with the Complainant and cannot constitute fair use.

Beyond looking at the domain name and the nature of any additional terms appended to it, UDRP panels assess whether the overall facts and circumstances of the case, and the absence of a response, support a fair use or not. [WIPO Overview 3.0](#), sections 2.5.2 and 2.5.3.

The Disputed Domain Name resolves to a parking page of the Registrar. In the Panel’s view, this does not amount to any legitimate noncommercial or fair use or use in connection with a bona fide offering of goods and services.

The Respondent had the opportunity to demonstrate his rights or legitimate interests but did not do so. In the absence of a Response from the Respondent, the prima facie case established by the Complainant has not been rebutted.

Based on the available record, 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.

The Panel finds that the following circumstances serve as indication of bad faith registration and use:

- the Disputed Domain Name incorporates the textual elements of the Complainant’s BOUYGUES trademark in its entirety and combines it with a common abbreviation, which can easily be linked to the Complainant’s activities;
- some of the Complainant’s trademarks predate the registration of the Disputed Domain Name by more than 50 years;
- the Respondent must have had knowledge of the Complainant’s rights in the distinctive BOUYGUES trademark at the moment it registered the Disputed Domain Name. The reputation of the Complainant’s BOUYGUES figurative trademark has been confirmed by several UDRP panels (see e.g., *Bouygues v. Contact Privacy Inc. Customer 7151571251/ Frank McClosky*, WIPO Case No. [D2022-2401](#));

- the Complainant provides evidence of an active MX record connected to the Disputed Domain Name, which suggests that it may be used for email purposes;
- the Respondent did not take part in the administrative proceedings.

Given the totality of the circumstances discussed above, the fact that Disputed Domain resolves to a standard parking page of the Registrar does not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3.

Based on the available record, 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 <uk-bouygues.com> be transferred to the Complainant.

/Flip Jan Claude Petillion/

Flip Jan Claude Petillion

Sole Panelist

Date: January 6, 2025