

ADMINISTRATIVE PANEL DECISION

Spie Batignolles v. alain denalie
Case No. D2024-5151

1. The Parties

The Complainant is Spie Batignolles, France, represented by Nameshield, France.

The Respondent is alain denalie, Belgium.

2. The Domain Name and Registrar

The disputed domain name <commande-spiebatignolles.site> is registered with Key-Systems GmbH (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 13, 2024. On December 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 17, 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 (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 17, 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 December 18, 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 December 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 8, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 10, 2025.

The Center appointed Peter Burgstaller as the sole panelist in this matter on January 20, 2025. 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 French based construction company which provides building and infrastructure construction in France, Germany, the United Kingdom, Spain, Portugal and Switzerland (Annex 3 to the Complaint).

The Complainant's company name is SPIE BATIGNOLLES and it owns several trademark registrations containing the mark SPIE BATIGNOLLES, inter alia:

- International trademark registration (figurative), Registration No. 535026, registered on February 17, 1989, designated especially for Benelux, Switzerland, Germany and Italy;
- European Union trademark registration (figurative), Registration No. 3540226, registered on December 5, 2006;
- French trademark registration (figurative), Registration No. 1494661, registered on April 7, 1989 (Annex 4 to the Complaint).

Moreover, the Complainant owns several domain names which include the SPIE BATIGNOLLES mark, especially its primary domain name <spiebatignolles.com>, registered on April 27, 2009. (Annex 5 to the Complaint).

The disputed domain name was registered on November 23, 2024 (Annex 1 to the Complaint). At the time of filing the Complaint, the disputed domain name resolved to a parking page (Annex 6 to the Complaint). Furthermore, there is an active Mail Exchange ("MX") record for the disputed domain name (Annex 7 to the Complaint).

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 it owns several trademark registrations containing the mark SPIE BATIGNOLLES and the disputed domain name contains the SPIE BATIGNOLLES trademark in its entirety, simply adding the descriptive term "commande" (French for "order") as prefix. Hence, the Complainant notes that the disputed domain name is confusingly similar to the Complainant's SPIE BATIGNOLLES mark.

Further, the Complainant asserts, that it has never assigned, granted, licensed, sold, transferred, or in any way authorized the Respondent to register or use the SPIE BATIGNOLLES trademark in any manner; moreover, the Respondent is not known under the disputed domain name and therefore does not have any rights or legitimate interests in the disputed domain name.

The Complainant also notes that the disputed domain name was registered decades after the Complainant has established rights in the mark SPIE BATIGNOLLES and the Respondent was aware of the Complainant and its rights in the mark SPIE BATIGNOLLES when registering the disputed domain name.

Further, the Complainant contends that the disputed domain name resolved to a parking website and there is an active MX record for the disputed domain name which suggests that it may be actively used for email purposes. Therefore, the disputed domain name was registered and is used in bad faith.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, the Complainant must prove 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 with respect to 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.

Based on the available record, the Panel finds the Complainant has shown rights in respect of the mark SPIE BATIGNOLLES for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

In the present case, the disputed domain name is confusingly similar to the distinctive mark SPIE BATIGNOLLES in which the Complainant has rights since it incorporates the entirety of the mark SPIE BATIGNOLLES and only adds the descriptive term "commande" (French for "order") as prefix together with a hyphen.

It has long been established under UDRP decisions that where the relevant trademark is recognizable within the disputed domain name, the mere addition of other terms does not prevent a finding of confusing similarity under the first element of the Policy. This is the case at present. [WIPO Overview 3.0](#), section 1.8.

Finally, it has also long been held that generic Top-level Domains ("gTLDs") (in this case ".site") are generally disregarded when evaluating the confusing similarity of a disputed domain name. [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, 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.

While 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 often impossible 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. 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 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, since it has never assigned, granted, licensed, sold, transferred, or in any way authorized the Respondent to register or use the SPIE BATIGNOLLES trademark in any manner.

The Respondent is not known under the disputed domain name and the disputed domain name is not being used for a bona fide offering of goods or services; rather the disputed domain name is passively held by the Respondent which does not establish legitimate rights in the disputed domain name.

The nature of the disputed domain name, incorporating the entirety of the distinctive mark SPIE BATIGNOLLES together with the descriptive term “commande” as prefix, cannot be considered fair use as it may suggest an affiliation with the Complainant that does not exist. [WIPO Overview 3.0](#), section 2.5.1.

The Respondent did not provide any evidence showing its rights or legitimate interests in the disputed domain name.

Based on the available record, the Panel finds the second element of the Policy has been established

C. Registered and Used in Bad Faith

As stated in many decisions rendered under the Policy, both conditions, registration and use in bad faith, must be demonstrated; consequently, the Complainant must show that:

- the disputed domain name was registered by the Respondent in bad faith; and
- the disputed domain name is being used by the Respondent in bad faith.

(i) The Complainant has established rights in the distinctive mark SPIE BATIGNOLLES decades before the registration of the disputed domain name. Furthermore, the Complainant is using the mark SPIE BATIGNOLLES as its primary domain name, <spiebatignolles.com>, to address its business website.

Because of the distinctiveness of the SPIE BATIGNOLLES mark, it is inconceivable for this Panel that the Respondent has registered the disputed domain name without knowledge of the Complainant's rights. Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a distinctive trademark by an unaffiliated entity (as it is in the present case) can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

Moreover, the term “commande” (“order”) as prefix to the SPIE BATIGNOLLES mark in the disputed domain name rather strengthens the impression that the Respondent must have been aware of the Complainant and its mark when registering the disputed domain name.

Finally, a simple online search for “spie batignolles” would have shown the Complainant and its marks. [WIPO Overview 3.0](#), section 3.2.3.

Therefore, the Panel is convinced that the disputed domain name was registered in bad faith by the Respondent.

(ii) The disputed domain name is also being used in bad faith. The disputed domain name resolves to a registrar's parking website with no substantive content provided by the Respondent. Panels have found that the non-use of a domain name (including a blank or “coming soon” page, or a registrar's parking page like in the present case) would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3.

The distinctiveness of the Complainant's trademark, and the nature of the disputed domain name support the finding 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.

Furthermore, this Panel concludes that the disputed domain name is being used in bad faith, putting emphasis on the following:

- the Complainant's trademark SPIE BATIGNOLLES is distinctive;
- the Respondent has failed to present any evidence of any good faith use with regard to the disputed domain name;
- the disputed domain name is inherently misleading, and is thus suited to divert or mislead potential Internet users from the website they are trying to visit (the Complainant's site) and giving the false impression that the Respondent may be in some way related with the Complainant, which is not the case;
- the disputed domain name has active MX records, as shown in the MX records lookup, which indicates a possible use for email services; and
- there is no conceivable, plausible good faith use with regard to the disputed domain name considering it clearly targets the Complainant's trademark.

The evidence and documents produced and put forward by the Complainant together with the fact that the Respondent has failed to present any evidence of any good faith registration and use with regard to the disputed domain name further supports the finding of bad faith.

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 <commande-spiebatignolles.site> be transferred to the Complainant.

/Peter Burgstaller/

Peter Burgstaller

Sole Panelist

Date: February 3, 2025