

ADMINISTRATIVE PANEL DECISION

Bouygues v. Foulfoin Jacques Philippe
Case No. D2024-5302

1. The Parties

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

The Respondent is Foulfoin Jacques Philippe, Türkiye.

2. The Domain Name and Registrar

The disputed domain name <bouygues-france.com> is registered with Aerotek Bilisim Taahut Sanayi Ve Ticaret Ltd Sti. (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on December 24, 2024. On December 24, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 25, 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 (Privacy Protect, LLC, PrivacyProtect.org) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 27, 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 30, 2024.

On December 27, 2024, the Center informed the parties in Turkish and English, that the language of the registration agreement for the disputed domain name is Turkish. On December 30, 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 both Turkish and English, and the proceedings commenced on January 3, 2025. In

accordance with the Rules, paragraph 5, the due date for Response was January 23, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 27, 2025.

The Center appointed Zeynep Yasaman as the sole panelist in this matter on January 28, 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, founded in 1952 and present in over 80 countries with more than 201,500 employees worldwide, is a French company which operates mainly in construction, energy & services, telecommunication and media sectors.

The Complainant is the owner of numerous registered trademarks composed, in whole or in part, of the word "Bouygues" throughout the world. The Complainant provided a list of trademarks registered in different jurisdictions, some of them are:

- French trademark BOUYGUES no. 1197243 registered in classes 6, 16, 19, 28, 35, 37, 40, 41, 42, 43, 44, 45, registered on July 30, 1982;
- French trademark BOUYGUES no. 92408370 registered in classes 6, 7, 9, 16, 19, 28, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, registered on July 23, 1993;
- French trademark BOUYGUES CONSTRUCTION no. 99820969 registered in class 37, registered on April 7, 2000;
- French trademark BOUYGUES IMMOBILIER no. 4241809 registered in classes 35, 36, 37, 42, registered on May 13, 2016;
- French trademark BOUYGUES ENERGIES & SERVICES no. 3957919 registered in classes 35, 37, 38, 39, 42, and 45, registered on May 10, 2013;
- Canadian trademark BOUYGUES no. LMC384953 registered in classes 37 and 44, registration date: May 24, 1991;
- Canadian trademark BOUYGUES ENERGIES & SERVICES no. TMA944694 registered in classes 35, 37, 38, 39, 40, 42, and 45, registration date: August 1, 2016;
- United Kingdom trademark BOUYGUES no. 2349366 registered in classes 37 and 38, date of entry in register: June 11, 2004;
- United States of America trademark BOUYGUES no. 2970089 registered in classes 37 and 38, registration date: July 19, 2005;
- International trademark BOUYGUES no. 949188 registered in classes 6, 19, and 37, date of registration: September 27, 2007;
- International trademark BOUYGUES CONSTRUCTION no. 732339 registered in class 37, date of registration: April 13, 2000;
- International trademark BOUYGUES TELECOM no. 675530 registered in classes 9, 37, and 38, date of registration: June 27, 1997;
- European Union trademark BOUYGUES BATIMENT no. 001217223 registered in class 37, registration date: July 25, 2000.

The Complainant's main website, "bouygues.com", was registered on December 31, 1997. The Complainant provided a list of domain names containing the term "Bouygues" under various generic Top-Level Domains (gTLDs). However, the Panel is unable to verify the ownership of these domains, as the Whois database does not disclose this information.

The disputed domain name, <bouygues-france.com>, was registered on October 17, 2024. It resolves to a landing page in Turkish, which can be translated into English as follows: "Our website is under construction. Welcome. Our website is under preparation. If you wish, you can visit again soon. Control Panel -

Webmail - Hosting Support. Powered by Turhost, Turkey's hosting and domain provider". Based on the evidence provided by the Complainant, the Panel notes that the disputed domain name has been used to set up an email account linked to the disputed domain name through which an email was sent under the name of the Chief Purchasing Officer of Bouygues Construction, a group company of the Complainant. This email, sent from the mentioned email address linked to the disputed domain name requested a price quotation for 460 cold room sandwich panels. The email signature included the name "Directeur des Achat, Bouygues Batiment Ile de France" and also referenced the disputed domain name <bouygues-france.com>.

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 argues that the disputed domain name identically reproduces its prior rights in the denomination BOUYGUES, followed by "france", which is the country of incorporation of the Complainant. As a result, the Complainant's trademarks and domain names, composed of the highly distinctive term "Bouygues", are easily recognizable within the disputed domain name. The Complainant asserts that the disputed domain name appears to be associated with its prior rights, as it implies that it belongs to or is officially authorized by the Complainant. Therefore, consumers are likely to conclude that the disputed domain name is simply an extension regarding the Complainant's business in France. In this regard, the Complainant claims that the disputed domain name is confusingly similar to its prior trademarks and domain names.

Furthermore, the Complainant asserts that the Respondent has no rights or legitimate interest in the contested domain name. The Respondent has no connection with the Complainant, is not an authorized dealer, distributor or licensee of the Complainant and has not been permitted by the Complainant to register or use any of its prior rights. The Complainant adds that the term "Bouygues" is highly distinctive and corresponds to the family name of its creators. Moreover, the Complainant argues that the term "Bouygues" is not merely a famous name, but a name that refers directly to a category of goods and services in the mind of consumers. To the Complainant's knowledge, the Respondent does not have prior rights on the term "Bouygues", nor is it commonly known under this name. A search through trademarks registered in the European Community has disclosed that there isn't any other registration featuring this name and other companies whose name features "Bouygues", and a search on <google.com> for "Bouygues" has disclosed no references to businesses other than the Complainant's in the top 40 hits. Additionally, the Complainant contends that the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name without intent for commercial gain misleadingly to divert consumers or to tarnish the trademark or service mark at issue, since the Complainant has evidence of fraudulent act carried out by the Respondent using the disputed domain name. In this regard, the Complainant asserts that the disputed domain name cannot be considered as giving the Respondent rights or a legitimate interest stemming from a bona fide offer of goods or services or a legitimate noncommercial or fair use of the disputed domain name.

Lastly, the Complainant asserts that the disputed domain name was registered and is being used in bad faith.

Regarding the registration in bad faith, the Complainant argues that due to the facts that the Complainant is a well-known and worldwide company and that BOUYGUES trademarks have acquired an extensive and worldwide reputation, the Respondent knew or at least should have known, at the time of the registration of the disputed domain name, the Complainant's prior trademarks. The Complainant adds that the registration of a domain name containing a well-known trademark constitutes bad faith per se. Furthermore, the Complainant asserts that the Respondent's actual knowledge of the Complainant's prior rights is indicated by the fact that the denomination "Bouygues" has been entirely reproduced in the disputed domain name and this is further reinforced by the fact that the second part of the disputed domain name ("france") refers to the

country where the Complainant is incorporated and has a large part of its activities. The Complainant argues that, given the longstanding existence of the trademarks and domain names of the Complainant, it is highly unlikely that the Respondent coincidentally selected the disputed domain name without any knowledge of the Complainant's prior rights on this denomination. Moreover, the Complainant notes that the Respondent used a privacy protection service and hid its identity.

Regarding the use in bad faith, the Complainant contends that with the disputed domain name incorporating the Complainant's prior well-known rights, the Respondent has intentionally attempted to attract Internet users to its website by creating a likelihood of confusion with the Complainant as to the source, sponsorship, affiliation or endorsement of the Respondent's website. This is further confirmed by the fact that the Respondent has used the disputed domain name to send order emails to the Complainant, and that fact demonstrates the Respondent has used the disputed domain name in an attempt to impersonate the Complainant. In that regard, the Complainant asserts that there is no conceivable legitimate use of the disputed domain name by the Respondent.

B. Respondent

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

6. Discussion and Findings

Language of the Proceeding

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 Registrar of the disputed domain name, in its response to the Center, indicated that the language of the registration agreement used by the registrant for the disputed domain name is Turkish. Accordingly, the Panel notes that the language of the Registration Agreement for the disputed domain name is Turkish.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be 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, the language/script of the domain name particularly where the same as that of the complainant's mark, any content on the webpage under the disputed domain name, prior cases involving the respondent in a particular language, or other indicia tending to show that it would not be unfair to proceed in a language other than that of the registration agreement (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Although the language of the registration agreement of the disputed domain name is Turkish, the Panel, after considering several factors, determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English. These factors include the presence of an English term in the disputed domain name, the fact that a prior UDRP case involving the Respondent was conducted in English, and the Respondent's lack of response following the Center's communications in both Turkish and English.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights.

Where the complainant holds a nationally or regionally registered trademark or service mark, this *prima facie* satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case ([WIPO Overview 3.0](#), section 1.2.1). In the present case, given that the Complainant owns several registered BOUYGUES trademarks worldwide, the Panel finds that the Complainant has established rights in respect to a trademark or service mark for the purposes of the Policy.

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 3.0](#), section 1.7).

The disputed domain name <bouygues-france.com> reproduces entirely the Complainant's BOUYGUES trademark, with the addition of a hyphen, the word "france" and the gTLD ".com." It is well established by panels applying the Policy that where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. Similarly, the applicable gTLD in a domain name (e.g., ".com") is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test (*H & M Hennes & Mauritz AB v. Donnie Lewis*, WIPO Case No. [D2017-0580](#)). Therefore, although the addition of terms, such as "france", may bear on the 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).

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademarks for the purposes of the Policy.

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. 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. These are as follows:

- (i) before any notice of the dispute, the respondent's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or
- (ii) the respondent (as an individual, business, or other organization) has been commonly known by the domain name, even if the respondent has acquired no trademark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

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 clearly established that the Respondent is not affiliated with the Complainant in any way, nor is the Respondent authorized or licensed to use the BOUYGUES trademark or register the disputed domain name. There is also no evidence to suggest that the Respondent is commonly known by the disputed domain name.

Where a domain name consists of a trademark plus an additional term (at the second- or top-level), UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. Certain geographic terms (e.g., <trademark-usa.com>, or <trademark.nyc>) are seen as tending to suggest sponsorship or endorsement by the trademark owner ([WIPO Overview 3.0](#), section 2.5.1). The Panel notes that BOUYGUES is a distinctive trademark, and there is no legitimate explanation on the record as to why the Respondent registered the disputed domain name, which combines the Complainant's BOUYGUES trademark with the addition of the name of a country (France), where the Complainant is based. In this regard, the Panel finds that the combination of the Complainant's BOUYGUES trademark with the geographical term "France" in the disputed domain name cannot constitute fair use, as it carries a risk of implied affiliation with the Complainant.

Moreover, while the website to which the disputed domain name resolves is under construction and does not offer goods or services, the disputed domain name has been used to set up an email account which was used to send an order email under the name of the Chief Purchasing Officer of Bouygues Construction, a group company of the Complainant. Panels have held that the use of a domain name for illegal activity, such as impersonation, 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:

- (i) circumstances indicating that Respondent has registered or has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the domain name; or
- (ii) that respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that respondent has engaged in a pattern of such conduct; or
- (iii) that respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) that by using the domain name, respondent has intentionally attempted to attract, for commercial gain, Internet users to respondent's website or other on-line location, by creating a likelihood of confusion with complainant's mark as to the source, sponsorship, affiliation, or endorsement of respondent's website or location or of a product or service on respondent's website or location.

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 Panel is of the opinion that the Complainant's BOUYGUES trademark is a reputed mark, especially in the country where the Complainant is based, France. It has been established in previous UDRP decisions that the registration of a domain name incorporating a widely-recognized or well-known trademark by a third party who has no connection with the trademark is a clear indication of bad faith (see *Pepsico, Inc. v. Domain Admin*, WIPO Case No. [D2006-0435](#); *Veuve Clicquot Ponsardin, Maison Fondée en 1772 v. The Polygenix Group Co.*, WIPO Case No. [D2000-0163](#)). In this regard, the Panel concludes that the Respondent was aware of the Complainant's well-known trademark when registering the disputed domain name and that the disputed domain name has been registered in bad faith by the Respondent.

Panels have held that the use of a domain name for illegal activity, such as impersonation, constitutes bad faith ([WIPO Overview 3.0](#), section 3.4). As examined above, the disputed domain name is used to send emails impersonating the Complainant's Chief Purchasing Officer. The Panel considers that the Respondent registered the disputed domain name to fraudulently represent itself as the Complainant, and such conduct is sufficient to conclude that the disputed domain name was used in bad faith, even if the disputed domain name was never used in connection with an active website.

Moreover, the Panel notes that the Respondent had been involved in other UDRP cases as a respondent for abusive domain name registrations. See *Bouygues v. Foulfoin Jacques Philippe*, WIPO Case No. [D2023-2090](#), *TotalEnergies SE v. Foulfoin Jacques Philippe*, WIPO Case No. [D2024-4183](#). UDRP panels have held that establishing a pattern of bad faith conduct requires more than one, but as few as two instances of abusive domain name registration. This may include a scenario where a respondent, on separate occasions, has registered trademark-abusive domain names, even where directed at the same brand owner. A pattern of abuse has also been found where the respondent registers, simultaneously or otherwise, multiple trademark-abusive domain names corresponding to the distinct marks of individual brand owners ([WIPO Overview 3.0](#), section 3.1.2). In this regard, the Panel considers that the Respondent has engaged in a pattern of trademark-abusive domain name registrations.

Lastly, it appears that the Respondent provided false contact information when registering the disputed domain name. While the Respondent has provided a postal address in France, it also provided Türkiye as the country and, a phone number beginning with Türkiye's international code followed by "06" which corresponds to the beginning of a French mobile number that does not exist in Türkiye.

Having considered the distinctiveness and reputation of the Complainant's trademark, the composition of the disputed domain name, the Respondent's failure to submit a response, the provision of false contact details, its pattern of abusive domain name registrations, and the use of the disputed domain name through an email account for impersonation, the Panel finds that the Respondent's registration and use of the disputed domain name constitute 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-france.com> be transferred to the Complainant.

/Zeynep Yasaman/

Zeynep Yasaman

Sole Panelist

Date: February 6, 2025