Decision for dispute CAC-UDRP-101490

Case number	CAC-UDRP-101490
Time of filing	2017-03-31 10:02:49
Domain names	HRBOLLOREMAIL.COM

Case administrator

Name	Aneta Jelenová (Case admin)

Complainant

Organization	BOLLORE SA

Complainant representative

Organization	Nameshield (Maxime Benoist)

Respondent

Name	Nikita Ivanov

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other pending proceedings which relate to the Domain Name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of several international trademark registrations for BOLLORE, such as the international registration number 704697 for BOLLORÉ, which has been registered since December 11, 1998 and the international registration number 595172 for BOLLORE, which has been registered since August 14, 1992.

The Complainant also owns and uses on the internet various domain names, the main one being <bollore.com>, registered on July 25th of 1997.

FACTUAL BACKGROUND

The Bolloré Group (the Complainant) was founded in 1822.

The Complainant is active in the fields of transportation and logistics, communications and media, and electricity storage solutions.

It is one of the 500 largest companies in the world and is listed on the Paris Stock Exchange.

The Domain Name <hrbolloremail.com> was registered on March 7th of 2017, by the Respondent, “Nikita Ivanov” .

The Domain Name displays a suspended website. Indeed, it has been suspended by the Registrar, because the email address of the Registrant / Respondent has not been verified.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

THE COMPLAINANT:

The Complainant claims that the Domain Name is confusingly similar to the Complainant’s “BOLLORE ” registered trademark; that the Respondent has no rights or legitimate interests whatsoever with respect to the Domain Name; and that the Respondent registered and is using the Domain Name in bad faith.

THE RESPONDENT:

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i)of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the Domain Name (within the meaning of paragraph 4(a)(ii)of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the Domain Name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii)of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

A) Confusingly similarity

The Complainant contends that the Domain Name <hrbolloremail.com> is confusingly similar to the Complainant's international trademark “BOLLORE”.

Indeed, the Domain Name <hrbolloremail.com> contains the Complainant’s registered trademark BOLLORE in its entirety.

The Panel agrees with the Complainant's assertion that the addition at the beginning of the Domain Name <hrbolloremail.com> of the generic word “HR” (in reference to Human Resources) and at the end of the Domain Name of the generic word “MAIL”, after the term BOLLORE, are not sufficient elements to escape the finding that the Domain Name is confusingly similar to the Complainant's trademarks. On the contrary, the generic terms “HR” and “MAIL” reinforces the confusion between the Domain Name and the Complainant’s trademark.

In support of its claims the Complainant also refers to the following: WIPO case no. D2014-0556, Wim Bosman Holding B.V.

vs. Ipower, Inc.: “the prefix “hr-”, far from distinguishing the Domain Name from that mark, serves to reinforce its distinctiveness by conveying the idea that the Domain Name emanates from the HR department of the Complainant”; and WIPO case no. DNL2016-0006, Koninklijke KPN N.V. vs. Gaststaette Rasthaus: “the use of the suffix “mail” is insufficient to differentiate this disputed domain name and the trademarks KPN”.

B) Lack of legitimate rights or interests

The Domain Name is a distinctive, non-descriptive name. It is unlikely that the Respondent registered the Domain Name without having the Complainant firmly in mind. The Complainant’s assertions that the Respondent is not commonly known by the Domain Name and is not affiliated with nor authorized by the Complainant are sufficient to constitute a prima facie showing of absence of rights or legitimate interest in the Domain Name on the part of the Respondent. The evidentiary burden therefore shifts to the Respondent to show by concrete evidence that it does have rights or legitimate interests in that name. The Respondent has made no attempt to do so. Furthermore, the Domain Name points to a suspended website and has done so since its registration on 2017-03-07. Indeed, the website displays the following information: “this domain name is suspended”, because the email address of the Respondent has not been verified.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the Domain Name.

C) Registered or Used in Bad Faith

The Complainant gives several sound bases for its contention that the Domain Name was registered in bad faith and that it has been used in bad faith.

Firstly, given the reputation of the Complainant’s trademark, its distinctiveness and the fact that the registration of the Complainant’s trademark predates for many years the registration of the Domain Name, the Panel finds on the balance of probabilities that the Respondent was aware of the Complainant’s trademark when registering the Domain Name.

Secondly, the Panel accepts the Complainant’s unchallenged assertion that the Respondent could not have used the Domain Name without infringing the Complainant's intellectual property rights on the expression BOLLORE.
Indeed, internet users may erroneously believe that the Domain Name redirects to a Human Resources website run by BOLLORE, or may believe that an email sent via this domain name was from the Human Resources department of the Complainant.

Thirdly, this Panel agrees with the Complainant's contentions that the Respondent has registered the Domain Name with the sole aim of creating a likelihood of confusion with the Complainant’s trademark and domain names, and that the Respondent has not demonstrated any activity in respect of the Domain Name. Indeed, the disputed domain name has pointed to a suspended website since its registration.

This Panel therefore also agrees that the Respondent made no action other than to register the Domain Name and that this behavior amounts to a passive holding constituting bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **HRBOLLOREMAIL.COM**: Transferred

PANELLISTS

Name	Dr. Fabrizio Bedarida

DATE OF PANEL DECISION 2017-04-28

Publish the Decision