Decision for dispute CAC-UDRP-101494

Case number	CAC-UDRP-101494
Time of filing	2017-03-31 10:20:47
Domain names	BOLLORE1US.COM

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	BOLLORE SA

Complainant representative

Organization	Nameshield (Maxime Benoist)

Respondent

Name	Dillan Dee Jackson

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the Disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the international trademark registration No. 704697 for BOLLORÉ (figurative mark), registered on December 11, 1998, in classes 16, 17, 34, 35, 36, 38 and 39.

FACTUAL BACKGROUND

The Complainant was founded in 1822 and is one of the 500 largest companies in the world, being also listed on the Paris Stock Exchange.

The Complainant is active in the fields of Transportation and Logistics, Communication and Media, Electricity Storage and Solutions. In addition to its activities, the Bolloré Group manages a number of financial assets including plantations and financial investments.

The Complainant operates its main website at the domain name <bollore.com>, registered on July 25, 1997.

The Disputed domain name <bollore1us.com> was registered on March 13, 2017, and is not used in connection with an

active website.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS

THE COMPLAINANT

The Complainant states that the disputed domain name is confusingly similar to its trademark as it differs from it only for the addition of the letters "us" to the Complainant's trademark, the number "1" and the gTLD suffix ".com".

The Complainant also contends that the Respondent has no rights or legitimate interests in the Disputed domain name since the Respondent is not known by the Complainant, is not affiliated with nor authorized by the Complainant in any way and does not have any business with the Complainant. The Complainant also underlines that it has not granted any license to the Respondent to make any use of its trademark, or apply for the registration of the Disputed domain name. The Complainant also submits that the fact that the Disputed domain name has been pointed to an inactive website since its registration demonstrates the Respondent's lack of legitimate interests in respect of the Disputed domain name.

The Complainant claims that the Respondent registered the disputed domain name in bad faith since, given the distinctiveness and reputation of the Complainant's trademark, it is reasonable to infer that the Respondent registered the disputed domain name with full knowledge of the Complainant's trademark. In addition, a Google search on the term BOLLORE displays several results, all of them being related to the Complainant and its trademark.

The Complainant also highlights that it has a strong worldwide presence, with many locations in United States, such as Washington, Miami, Chicago or Los Angeles.

The Complainant submits that the Respondent registered the disputed domain name with the sole aim at creating a likelihood of confusion with the Complainant's trademark and domain names.

As to the Respondent's lack of use of the Disputed domain name, the Complainant states that there is no evidence of any actual or contemplated good faith use of the Disputed domain name by the Respondent, and that the Respondent could not have used the Disputed domain name without infringing the Complainant's intellectual property rights.

The Complainant concludes that the Respondent is passively holding the Disputed domain name and at the same time depriving the trademark owner of reflecting its own trademark in the Disputed domain name.

THE RESPONDENT

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

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the Disputed 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 Disputed 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 Disputed domain name has been registered and are 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

1. The Panel finds that the Disputed domain name is confusingly similar to the Complainant's figurative trademark BOLLORÉ as it includes the dominant part of the Complainant's trademark, constituted by the denominative element "bollore", with the mere deletion of an accent and the addition of the two letters "us", the number "1" and the Top-Level domain ".com". As stated in a number of prior decisions rendered under the UDRP, these minor changes are not sufficient to exclude the likelihood of confusion.

2. The Complainant stated that the Respondent is not affiliated with or authorized by the Complainant in any way. There is no evidence of the fact that the Respondent, which has moreover hidden its identity in the WhoIs records through a privacy service before the filing of the Complaint, might have been commonly known by the Disputed domain name or by a name corresponding to the Disputed domain name. According to the evidence on records, the Respondent has simply passively held the Disputed domain name and has not submitted any evidence showing that it made use of, or demonstrable preparations to use, the Disputed domain name in connection with a bona fide offering of goods or services, or that it has made a legitimate non-commercial or fair use of the Disputed domain name. Therefore, and in the absence of a Response, the Panel finds that the Complainant has made a prima facie case that the Respondent has no rights or legitimate interest in the Disputed domain name.

3. As to the bad faith at the time of the registration, the Panel finds that, in light of the distinctiveness of the Complainant's trademark, with which the Disputed domain name is confusingly similar, and of the prior registration and use of the trademark BOLLORÉ by the Complainant, including in the Respondent's country, the Respondent was more likely than not aware of the Complainant's trademark at the time of the registration of the Disputed domain names.

The Disputed domain name has not been used in connection with an active web site, i.e. has been passively held. As established in a number of prior cases, the concept of "bad faith use" in paragraph 4(b) of the Policy includes not only positive action but also passive holding, especially in cases of domain name registrations corresponding to distinctive and well-known trademarks; see i.a. the landmark case Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BOLLORE1US.COM**: Transferred

PANELLISTS

Name	**Luca Barbero**

DATE OF PANEL DECISION 2017-05-11

Publish the Decision