Decision for dispute CAC-UDRP-101500

Case number	CAC-UDRP-101500
Time of filing	2017-04-05 09:57:19
Domain names	BOLLORELOGISTICSLLC.NET

Case administrator

Name	Aneta Jelenová (Case admin)

Complainant

Organization	BOLLORE SA

Complainant representative

Organization	Nameshield (Maxime Benoist)

Respondent

Name	JESSICA SAXTON

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 has alleged, and provided evidence to support, that it is the owner of multiple trademark registrations that consist of or contain the mark BOLLORE, including WIPO Reg. No. 704697 for BOLLORE (registered November 12, 1998, for use in connection with, inter alia, "transport; packaging and storage of goods"; and WIPO Reg. No. 1025892 for BOLLORE LOGISTICS (registered July 31, 2009, for use in connection with, inter alia, "merchandise transport administrative management services." These marks are referred to hereafter as the BOLLORE Trademark.

The Disputed Domain Name was created on March 14, 2017, and is not being used in connection an active website.

FACTUAL BACKGROUND

The following facts have been asserted by the Complainant and have not been contested by the Respondent:

"The Bolloré Group (the Complainant) was founded in 1822. Thanks to a diversification strategy based on innovation and international development, it now holds strong positions in all its activities around three business lines, Transportation and Logistics, Communication and Media, Electricity Storage and solutions."

"It is one of the 500 largest companies in the world. Listed on the Paris Stock Exchange, the majority interest of the Group's stock is always controlled by the Bolloré family. This stable majority control of its capital allows the Group to develop a long-term investment policy. In addition to its activities, the Group manages a number of financial assets including plantations and financial investments."

"Bolloré Logistics is one of the 10 leading worldwide groups in transport organisation and logistics. With a presence on the five continents, (601 agencies in 105 countries and more than 11,000 employees). Bolloré Logistics aims to consolidate the strength and reach of its international network through organic growth and targeted acquisitions."

"The Complainant also owns and communicates on Internet through various domain names, such as <bollore.com>, registered on July 25th of 1997 and <bollorelogistics.com> registered on January 20th of 2009."

The Complainant contends that the Disputed Domain Name is confusingly similar to the BOLLORE Trademark because, inter alia, the Disputed Domain Name contains the BOLLORE Trademark "in its entirety" plus "the generic term 'LLC'" which "refers to the United-States business structure 'Limited Liability Company'" and this element "does not change the overall impression of the designation as being connected to the trademark BOLLORE LOGISTICS®."

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because, inter alia, "the Respondent is not affiliated with nor authorized by BOLLORE or BOLLORE LOGISTIC in any way"; and lack of an active website associated with the Disputed Domain Name "confirms that the Respondent has no demonstrable plan to use the disputed domain name."

The Complainant contends that the Disputed Domain Name was registered and is being used in bad faith because, inter alia, "the Respondent has registered the disputed domain name with the sole aim to create a likelihood of confusion with the Complainant’s trademark and domain names"; "the disputed domain name cannot be use without infringing the Complainant’s intellectual property rights"; and "the Respondent has made no evidence of any actual or contemplated good faith use by it of the disputed domain name."

PARTIES CONTENTIONS

No administratively compliant Response has been filed.

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 UDRP 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 UDRP Policy).

BAD FAITH

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

Pursuant to the Policy, the Complainant is required to prove the presence of each of the following three elements to obtain

the relief it has requested: (i) the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; (ii) the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and (iii) the Disputed Domain Name has been registered and is being used in bad faith. Policy, paragraph 4(a).

First, based upon the trademark registrations cited by the Complainant, it is apparent that the Complainant has rights in and to the BOLLORE Trademark. The addition of the abbreviation "LLC" (an abbreviation for "limited liability company") and the word "logistics" (which is associated with the BOLLORE Trademark) do nothing to alleviate confusing similarity. See, e.g., Beachbody, LLC v. Anonymous Registrant / US BEACHBODYY LLC, WIPO Case No. D2010-1684 ("[t]he suffix 'LLC' is clearly a generic description and does not succeed in distinguishing the Disputed Domain Name from the Complainant's trademark"); and Yellow Corporation v. MIC, WIPO Case No. D2003-0748 ("when a domain name is registered which is a well-known trademark in combination with another word, the nature of the other word will largely determine the confusing similarity").

Second, as to rights or legitimate interests, under the Policy, "a complainant is required to make out a prima facie case that the respondent lacks rights or legitimate interests. Once such prima facie case is made, the burden of production shifts to the respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such appropriate allegations or evidence, a complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the UDRP." WIPO Overview 2.0, paragraph 2.1. The Panel finds that the Complainant has established its prima facie case and without any evidence from the Respondent to the contrary, the Panel is satisfied that the Complainant has satisfied the second element of the Policy.

Third, regarding bad faith, the doctrine of "passive holding" as articulated in Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003, is applicable here. In that well-known case, the panel wrote that "it is possible, in certain circumstances, for inactivity by the Respondent to amount to the domain name being used in bad faith." Here, the Panel finds bad faith under the passive holding doctrine given that "the Complainant's trademark has a strong reputation and is widely known"; "the Respondent has provided no evidence whatsoever of any actual or contemplated good faith use by it of the domain name"; and "it is not possible to conceive of any plausible actual or contemplated active use of the 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."

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BOLLORELOGISTICSLLC.NET**: Transferred

PANELLISTS

Name	**Douglas M. Isenberg**

DATE OF PANEL DECISION 2017-05-16

Publish the Decision