Decision for dispute CAC-UDRP-101696

Case number	**CAC-UDRP-101696**
Time of filing	**2017-09-26 09:43:22**
Domain names	**bolloreholding.com**

Case administrator

Name	**Aneta Jelenová (Case admin)**

Complainant

Organization	**BOLLORE**

Complainant representative

Organization	**Nameshield (Laurent Becker)**

Respondent

Name	**Hubert Dadoun**

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings related to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant uses the domain name "BOLLORE.COM" as its official web site, and is also the owner of the international trademark "BOLLORE" (registration n. 595172, in classes 6, 9, 11, 12, 13, 19, 20, 37, 41 and 42, priority 14 August 1992, based on French national registration no. 92407712) and the international trademark "BOLLORÉ and device" (registration no. 704697, in classes 16, 17, 34, 35, 36, 38 and 39, priority 11 December 1998, based on French national registration no. 98739779).

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT

The Complainant is a company with its legal seat in Paris, France. It was founded in 1822 and is one of the world´s largest 500 companies. The Complainant operates in three lines of business: transportation and logistics, communication and media, and electricity storage and solutions. The Complainant uses its trademarks "BOLLORE" and "BOLLORE and device" in connection to these businesses, and uses the domain "BOLLORE.COM" as its main website.

The Respondent registered the disputed domain name "BOLLOREHOLDING.COM" on 25 July 2017. The domain name is not

currently used for an active website, and it appears that it has not been used since it was registered.

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 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 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

RIGHTS IN AN IDENTICAL OR CONFUSINGLY SIMILAR TRADEMARK

The Complainant is the holder of different international and national trademark registrations including the trademark "BOLLORE". The most important trademark registration relating to the present dispute is the international "BOLLORE" trademark, registration no. 595172.

The disputed domain name "BOLLOREHOLDING.COM" includes the Complainant´s above referenced trademark in its entirety, and adds the term "HOLDING" and the ".COM" suffix. The term "HOLDING" can be used to define a company created to buy and own the shares of other companies, which it then controls, or as an inflection of the verb "to hold". The term is generic, and the Panel therefore decides that the addition of this term does not prevent the finding of confusing similarity. The Panel disregards the ".COM" suffix for the purpose of this comparison, as this is common practice. The Panel also finds that the Complainant's trademark is easily recognizable within the disputed domain name.

Based on the above, the Panel decides that the disputed domain name "BOLLOREHOLDING.COM" is confusingly similar to the Complainant's "BOLLORE" trademark.

NO RIGHTS OR LEGITIMATE INTERESTS AND BAD FAITH

No administratively response has been filed by the Respondent and in accordance with the UDRP Rule 5(f) the Panel must then decide the dispute based upon the complaint, in the absence of exceptional circumstances. It is up to the Panel to decide whether the Complainant has made out a prima facie case, meaning that the Panel is not bound to transfer the disputed domain name to the Complainant solely based on the lack of response by the Respondent. On the other hand the Panel takes into consideration that the Respondent did have time to file a respond, but chose not to do so.

The Complainant contends that the Respondent is not affiliated with nor authorized by the Complainant in any way. The Complainant also contends that the Respondent is not in any other way related to the business of the Complainant.

Considering that the disputed domain name was registered on the 21 August 2017 and that the complaint was filed on 20

September 2017 (the amended complaint was filed on 26 September 2017), the Respondent had only been the proprietor of the disputed domain for approximately one month before the Complainant filed the complaint. The Panel is not convinced that the one month of "non-use" is in itself enough for the Complainant to have established a prima facie case of lack of rights or legitimate interests and/or bad faith of the Respondent.

The Panel will hereafter examine whether the Respondent has provided any other evidence of the lack of rights and legitimate interests and bad faith of the Respondent which supports the contentions of the Complainant.

The Panel has conducted its own investigation at the time of the Decision and the Respondent is still not actively using the disputed domain name.

The question of a short period of "non-use" of the disputed domain name by a Respondent has been discussed in UDRP decision no. 101453, "MIRAPEX.CLUB". As the disputed domain could have a generic meaning in Latin, the Panel concluded that the Complainant had not to the satisfaction of the Panel shown that the Respondent had no legitimate rights or interest in the disputed domain name. The question was also discussed in UDRP decision no. 101629 regarding the disputed domain name "BOURSORAMA.COM". The Panel here decided that four days of "non-use" of the disputed domain name, which was identical to the Complainant's a trademark and had no dictionary meaning in any other language, was considered to be enough for the Panel to conclude, that the Complainant had shown that the Respondent had no rights or legitimate interests in the disputed domain name.

The Panel has conducted its own investigation relating to the possible other meanings of the word "BOLLORE". It has come to the attention of the Panel that "bollore" can mean "boil", "boiling point", "scorching heat" and "sweltering heat" in Italian. If the Respondent was interested in using the disputed domain in reference to this meaning, and not as a reference to the Complainant, it is possible that the Respondent does have legitimate interests in the disputed domain name. It has to be noted that the word "HOLDING" can both refer to the above mentioned company type, but also to the verb "to hold" or to "set aside". The Panel acknowledges that the combination of the two words can be interpreted in different generic ways.

On the other hand, the Complainant has existed and used the "BOLLORE" mark since 1822. The Panel conducted its own investigation by searching for "BOLLORE" on Google, and the result was a long list of domains, referring only to the company of the Complainant. As the Complainant contends, it is common practice that passive holding of a domain name can be considered bad faith if the Complainant’s mark has a strong reputation and the Respondent has provided no evidence of any actual or contemplated good faith use by it of the domain name (see Intel Corporation v. The Pentium Group, WIPO Case No. D 2009-0273 and Telstra Corporation Limited v. Nuclear Marshmallows WIPO Case No. D 2000-0003). As the Complainant is also one of the largest 500 companies in the world, the Panel accepts the Complainant's contention that their trademark has a strong reputation and is in fact to be considered well-known.

In addition to the above, it is also noted, that the Respondent decided to register a ".COM" domain, and not e.g. a ".CLUB" domain. A ".COM" domain indicates that the Respondent is intending to use the domain for commercial activities, as ".COM" is used as an abbreviation of the word "commercial".

There are no indications that the Respondent has made any demonstrable preparation to use the domain name in connection to a bona fide offering of goods, that the Respondent has been commonly known by the domain name, or that the Respondent is making a legitimate or fair use of the domain name, without any intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

Considering all the above, the Panel concludes that the Complainant has established a prima facie case, showing that the Respondent has no rights or legitimate interests in the disputed domain name and that the Respondent has registered the domain name in bad faith. Therefore the Panel decides to transfer the disputed domain name to the Complainant

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BOLLOREHOLDING.COM**: Transferred

PANELLISTS

Name	**Lars Karnoe**

DATE OF PANEL DECISION 2017-11-08

Publish the Decision