Decision for dispute CAC-UDRP-101849

Case number	CAC-UDRP-101849
Time of filing	2018-01-25 08:53:39
Domain names	BOLLORE-1OGISTICS.COM

Case administrator

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

Complainant

Organization	BOLLORE

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Name	jorge villalva

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which relate to the disputed domain name <BOLLORE-1OGISTICS.COM>.

IDENTIFICATION OF RIGHTS

BOLLORE (the 'Complainant') is the owner of a number of an International Trade Mark registration for BOLLORE LOGISTICS (protected in a number of territories) under number 1025892 in various classes dated 31 July 2009 ('the BOLLORE LOGISTICS mark').

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Complainant is a French business founded in 1822. It operates in 3 sectors: transport and logistics, communication and media, and electricity storage solutions. The Complainant is one of the top 500 largest companies globally and is listed on the Paris Stock Exchange. The majority of the business is controlled by the Balloré family. Balloré Logistics is in the top 10 transport and logistics businesses globally.

The Complainant is the owner of a number of trade marks including the the BOLLORE LOGISTICS mark. In addition, it owns various domain names including <ballorelogistics.com> (registered on 20 January 2009).

The disputed domain name was registered by 'Jorge Villalva' (the 'Respondent') on 16 January 2018 who at first used a privacy shield service offered by his registrar.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant contends that the disputed domain name is confusingly similar to its BOLLORE LOGISTICS mark.

The only difference is the use of the number '1' instead of the letter 'L' at the beginning of the word LOGISTICS. The hyphen and the ".com" aspect of the disputed domain name can be disregarded. This is therefore a clear case of 'typosquatting'. The Complainant refers to the following cases in support of the contention that slight spelling variations do not prevent a finding of confusing similarity. Belkin Components v Gallant, FA 97075 (Nat. Arb. Forum 29 May 2001) where the panel found <belken.com> confusingly similar to the complainant's BELKIN mark because the letter 'e' had replaced the letter 'i' in the complainant's mark.

The Complainant states that the Respondent does not have any rights or legitimate interest in the disputed domain name as:
- The Respondent is not licensed, authorised by or affiliated with the Complainant or its BOLLORE LOGISTICS mark.
- The Complainant has no business connection with the Respondent.
- Whilst the website attached to the disputed domain name points to an inactive page, the Respondent attempted to create a likelihood of confusion by using the disputed domain name to contact the Complainant by e-mail in relation to a payment.

Finally, according to the Complainant, the disputed domain name has been registered and is being used in bad faith as:
- The registration of the disputed domain name containing a misspelling of the Complainant's mark indicates the Respondent intended to cause confusion. Typosquatting is a form of impersonation, and is not consistent with honest or fair or legitimate use.
- The Respondent has registered the disputed domain name to intentionally create a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or of the financial side which the Complainant states was probably the basis of the fraudulent phishing attempt by the Respondent.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed Domain Name is confusingly similar to a trade mark 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 the UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

The Complainant, being represented by Laurent Becker of Nameshield, filed its complaint in relation to the disputed domain name with the CAC on 25 January 2018.

The CAC then formally commenced proceedings on 26 January 2018 and notified the Respondent accordingly.

The Respondent failed to submit a response within the time frame required in this complaint, or at all, and a Notification of Respondent's Default was therefore issued by the CAC on 26 February 2018.

Having received a Statement of Acceptance and Declaration of Impartiality, the Czech Arbitration Court appointed Steve Palmer, of Palmer Biggs Intellectual Property Solicitors, as the Panel in these UDRP proceedings.

PRINCIPAL REASONS FOR THE DECISION

IDENTICAL OR CONFUSINGLY SIMILAR

The disputed domain name consists of the Complainant's BOLLORE LOGISTICS mark, save that the first letter 'L' in the second word has been substituted with the number '1'. There is also the addition of a hyphen between the two words and the '.com' suffix.

The hyphen in the middle of the BOLLORE LOGISTICS mark and addition of the '.com' suffix may both be disregarded when it comes to considering whether a domain name is confusingly similar to a trade mark in which the Complainant has rights.

As a result, given the distinctiveness of the Complainant's BOLLORE LOGISTICS mark and the minor change to the spelling of the second word, the Panel concludes that the disputed Domain Name is confusingly similar to a trade mark in which the Complainant has rights within the meaning of paragraph 4(a)(i) of the Policy.

RIGHTS OR LEGITIMATE INTERESTS

The Respondent failed to file an administratively compliant (or any) response. In the circumstances the Panel finds from the facts put forward that:

The Respondent does not appear to have any trade marks associated with the BOLLORE LOGISTICS mark.

There is no evidence that the Respondent is commonly known by the BOLLORE LOGISTICS mark, and the Respondent does not have any consent from the Complainant to use the BOLLORE LOGISTICS mark.

There is no evidence to show the Respondent may have used the disputed domain name for any bona fide offering of goods or services of its own. There was an e-mail sent to the Complainant relating to a payment of sorts using the disputed domain name. This is not a bona fide offering of goods and services within the meaning of paragraph 4(c)(i) of the Policy and it is not a legitimate non-commercial or fair use within the meaning of paragraph 4(c)(iii) of the Policy. See CareerBuilder, LLC v. Stephen Baker, WIPO Case No. D2005-0251; The Boots Company, PLC v. The programmer adviser, WIPO Case No. D2009-1383; and Societe Francaise Du Radiotelephone - SFR v. Morel David, WIPO Case No. D2009-1563.

On the balance of probabilities, and in the absence of any evidence to the contrary (or any administratively compliant response at all) being put forward by the Respondent, the Panel finds that the Respondent does not have any rights or legitimate interests in the disputed domain name within the meaning of paragraph 4(a)(ii) of the Policy.

REGISTERED AND USED IN BAD FAITH

Paragraph 4(b) of the Policy sets out non-exclusive criteria which shall be evidence of the registration and use of a domain

name in bad faith.

On the balance of probabilities, and in the absence of any evidence to the contrary (or any administratively compliant response at all) being put forward by the Respondent, the Panel believes from the facts in this case that the Respondent had the Complainant's BOLLORE LOGISTICS mark in mind when registering and subsequently using the disputed domain name by sending an e-mail to the Complainant which related to payment of sorts.

The Panel therefore finds that the Respondent has engaged in typosquatting to cause confusion with the Complainant's BOLLORE LOGISTICS mark, quite possibly for his own commercial gain, and therefore the disputed domain name was registered and is being used in bad faith within the meaning of paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BOLLORE-1OGISTICS.COM**: Transferred

PANELLISTS

Name	**Steve Palmer**

DATE OF PANEL DECISION 2018-03-23

Publish the Decision