Decision for dispute CAC-UDRP-102249

Case number	CAC-UDRP-102249
Time of filing	2018-12-04 10:10:01
Domain names	lbollore.com

Case administrator

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

Complainant

Organization	BOLLORE

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Organization	Milton Liqours lLC

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

The Complainant owns several trademarks including the term “BOLLORE”, such as the international trademark registration BOLLORE Reg. No. 704697 registered on December 11, 1998.

FACTUAL BACKGROUND

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

The Complainant was founded in 1822. It 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.

The Complainant is the owner of several trademarks including the term “BOLLORE”, such as the international trademark registration BOLLORE Reg. No. 704697. The Complainant also owns and communicates on the Internet through various domain names, the main one being <bollore.com>, registered on July 25, 1997.

The disputed domain name was registered on November 28, 2018. The disputed domain name resolves to a website featuring a parking page with commercial links related to the Complainant's activities.

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

Identical and/or Confusingly Similar

The Panel notes that the Complainant owns several trademarks including the term "BOLLORE", such as the international trademark registration BOLLORE Reg. No. 704697 registered on December 11, 1998. Registering a mark with a trademark registration authorities is sufficient to establish rights in a mark under Policy 4(a)(i). See Home Depot Product Authority, LLC v. Samy Yosef / Express Transporting, FA 1738124 (FORUM July 28, 2017) (finding that registration with the USPTO was sufficient to establish the complainant's rights in the HOME DEPOT mark). As such, the Panel finds that the Complainant has established rights in the mark BOLLORE.

The Complainant contends that the disputed domain name is confusingly similar to the Complainant's mark BOLLORE. It further contends that addition of the letter "L" does not change the overall impression of the designation as being connected to the Complainant's trademark; it is well-established that "a domain name that wholly incorporates a Complainant's registered trademark may be sufficient to establish confusing similarity for purposes of the UDRP"; this is a clear case of typosquatting as the disputed domain name contains an obvious misspelling of the Complainant's trademark.

The Panel notes previous panels have concluded that the addition of a letter and of the generic top-level domain ".com" is insufficient to distinguish the domain name from the mark. The Panel agrees with the Complainant. See FORUM Case No. FA 0956501, T.R. World Gym-IP, LLC v. William D'Addio ("The addition of the letter "s" and of the generic top-level domain ".com" is insufficient to distinguish the domain name from the mark. ").

Thus, the Panel concludes that the disputed domain name is confusingly similar to the Complainant's mark BOLLORE per paragraph 4(a)(i) of the Policy.

Rights or Legitimate Interests

Complainant must first make a prima facie case that Respondent lacks rights and legitimate interests in the disputed

domain name underparagraph 4(a)(ii) of the Policy, then the burden shifts to Respondent to show it does have rights or legitimate interests. See Advanced International Marketing Corporation v. AA-1 Corp, FA 780200 (FORUM Nov. 2, 2011) (finding that a complainant must offer some evidence to make its prima facie case and satisfy paragraph 4(a)(ii) of the Policy); see also Neal & Massey Holdings Limited v. Gregory Ricks, FA 1549327 (FORUM Apr. 12, 2014) ("Under Policy ¶ 4(a)(ii), Complainant must first make out a prima facie case showing that Respondent lacks rights and legitimate interests in respect of an at-issue domain name and then the burden, in effect, shifts to Respondent to come forward with evidence of its rights or legitimate interests").

The Complainant contends that the Respondent is not affiliated with nor authorized by BOLLORE in any way; the Respondent has no rights or legitimate interests in respect of the disputed domain name; the Complainant does not carry out any activity for, nor has any business with the Respondent; neither license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark BOLLORE, or apply for registration of the disputed domain name by the Complainant. The Complainant also claims that the disputed domain name is a typosquatted version of the trademark BOLLORE; typosquatting is the practice of registering a domain name in an attempt to take advantage of Internet users' typographical errors and can be evidence that a respondent lacks rights and legitimate interests in the domain name.

The Complainant contends that the disputed domain name resolves to a parking page with commercial links ("PPC") related to the Complainant's activities; past panels have found it is not a bona fide offering of goods or services or legitimate non-commercial or fair use.

The Panel finds that Complainant has made out a prima facie case that arises from the considerations above. All of these matters go to make out the prima facie case against Respondent. As Respondent has not filed a Response or attempted by any other means to rebut the prima facie case against it, the Panel finds that Respondent has no rights or legitimate interests in the disputed domain name per paragraph 4(a)(ii) of the Policy.

Registration and Use in Bad Faith

The Complainant contends that its trademark BOLLORE is well-known and distinctive; past panels have confirmed the notoriety of the trademarks BOLLORE in the following cases:

- CAC Case No. 101498, BOLLORE SA v. Naquan Riddick (The Respondent registered the Disputed domain name with full knowledge of the Complainant's well-known trademark.);

- CAC Case No. 101696, BOLLORE v. Hubert Dadoun (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.).

The Complainant further contends that this misspelling was intentionally designed to be confusingly similar with the Complainant's trademarks. The Complainant has submitted previous UDRP precedent which has seen such actions as evidence of bad faith: WIPO Case No. D2018-0538, Kansas City Steak Company, LLC v. Compsys Domain, Compsys Domain Solutions Private Limited ("This is a clear case of typosquatting. The Respondent has registered the Trade Mark containing a misspelling or homophone of the work "steaks", most likely to divert traffic from the Complainant's website to the Respondent's website. The Panel finds that this constitutes bad faith registration and use under paragraph 4(b)(iv) of the Policy."). This Panel finds that the disputed domain name is a case of typosquatting. Therefore, the Panel finds that this constitutes bad faith registration and use under paragraph 4(b)(iv) of the Policy."

The Complainant also contends that given the distinctiveness of the Complainant's trademarks and their reputation, it is inconceivable that the Respondent could have registered the disputed domain name without actual knowledge of Complainant's rights in the trademark. The Panel infers, due to the fame of the Complainant's mark that the Respondent had actual knowledge of Complainant's rights in the mark prior to registering the disputed domain name and finds that actual knowledge is adequate evidence of bad faith under paragraph 4(a)(iii) of the Policy. See Orbitz Worldwide, LLC v. Domain Librarian, FA 1535826 (FORUM Feb. 6, 2014) ("The Panel notes that although the UDRP does not recognize 'constructive

notice' as sufficient grounds for finding Policy ¶ 4(a)(iii) bad faith, the Panel here finds actual knowledge through the name used for the domain and the use made of it.").

The Complainant finally contends that the disputed domain name resolves to a parking page with commercially related to the Complainant's activities; the Respondent attempts to attract Internet users by creating a likelihood of confusion with the Complainant's trademark. The Complainant has submitted previous UDRP precedent which has seen such actions as evidence of bad faith: WIPO Case No. Case No. D2017-2003, Association des Centres Distributeurs E. Leclerc - A.C.D Lec v. Milen Radumilo ("The Panel takes the view that the redirection of the disputed domain name, which is confusingly similar to Complainant's LECLERC trademark, by means of a typical typo-squatting to a generic PPC website in order to generate pay-per-click revenues without Complainant's permission to do so, is a clear indication that Respondent intentionally attempted to attract, for commercial gain, Internet users to his own website, by creating a likelihood of confusion with Complainant's LECLERC trademark as to the source, sponsorship, affiliation or endorsement of Respondent's website. Such circumstances are evidence of registration and use of the disputed domain name in bad faith within the meaning of paragraph 4(b)(iv) of the Policy.").

The Panel agrees with the Complainant's contentions above and finds that the Respondent has registered and is using the disputed domain name in bad faith per paragraph 4(a)(iii) of the Policy.

The Panel concludes that the Complainant has established all three elements required under paragraph 4(a) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **LBOLLORE.COM**: Transferred

PANELLISTS

Name	**Mr. Ho-Hyun Nahm, Esq.**

DATE OF PANEL DECISION 2018-12-29

Publish the Decision