Decision for dispute CAC-UDRP-102407

Case number	CAC-UDRP-102407
Time of filing	2019-04-02 08:10:06
Domain names	bollore-fr.com

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	BOLLORE

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Organization	Thomas Christina Christina

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 <bollore-fr.com> was registered on March 21, 2019, and is not used in connection with an active

website.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS

THE COMPLAINANT

The Complainant contends that the disputed domain name <bollore-fr.com> is confusingly similar to its trademark BOLLORE, as it includes the trademark in its entirety with the mere addition of a hyphen and the abbreviation “fr”, which stands for France - where the Complainant is located – and does not change the overall impression of the designation as being connected to the Complainant’s trademark.

The Complainant also states that the Respondent has no rights or legitimate interests in the disputed domain name since the Respondent i) is not commonly known by the disputed domain name, ii) is not affiliated with nor authorized by the Complainant in any way, iii) has not been granted by the Complainant any license or authorization to use the Complainant’s trademark BOLLORE or apply for registration of the disputed domain name and iv) has not made any use of disputed domain name since its registration.

The Complainant submits that the Respondent registered the disputed domain name in bad faith because the Complainant’s trademark is well-known and distinctive and the Respondent chose to associate the trademark BOLLORE with the geographic abbreviation “fr”, which immediately refers to the Complainant, as it has its headquarters in France.

As to the use of the disputed domain name, the Complainant notes that it currently resolves to an error page. It also submits that the Respondent has not demonstrated any activity related to the disputed 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.

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 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

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 addition of a hyphen, the two letters "fr" 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 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, the Respondent was more likely than not aware of the Complainant's trademark at the time of the registration of the disputed domain name.

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. **BOLLORE-FR.COM**: Transferred

PANELLISTS

Name	**Luca Barbero**

DATE OF PANEL DECISION 2019-05-17

Publish the Decision