Decision for dispute CAC-UDRP-102497

Case number	CAC-UDRP-102497
Time of filing	2019-05-21 08:46:03
Domain names	ibollore.com

Case administrator

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

Complainant

Organization	BOLLORE

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Organization	Schlosshotel Kronberg

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the international trademark no 704697 BOLLORE registered since 1998. The Complainant is also the owner of domain names including the trademark BOLLORE, such as the domain name <bollore.com>, registered since July 24, 1997. The disputed domain name <ibollore.com> was registered on May 16, 2019 and is currently inactive.

FACTUAL BACKGROUND

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

The Complainant contends that the BOLLORE group was founded in 1822 and 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. In addition to its activities, the Group manages a number of financial assets including plantations and financial investments.

The disputed domain name <ibollore.com> is confusingly similar to the Complainant’s trademark BOLLORE. Indeed, the trademark BOLLORE is included in its entirety. The Complainant contends that the addition of the letter “i” does not change

the overall impression of the designation as being connected to the Complainant's trademark BOLLORE. According to Complainant, this is a clear case of "typosquatting", i.e. the disputed domain name contains an obvious misspelling of the Complainant's trademark. Slight spelling variations does not prevent a domain name from being confusingly similar to the complainant's trademark.

The Complainant further contends that the addition of the generic Top-Level Domain suffix ".COM" does not change the overall impression of the designation as being connected to the trademark BOLLORE. It does not prevent the likelihood of confusion between the disputed domain names and the Complainant, its trademark and its domain names associated.

The Respondent does not have any rights or legitimate interest in the disputed domain name. The 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 respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the respondent fails to do so, the complainant is deemed to have satisfied paragraph 4(a) (ii) of the Policy.

The Complainant contends that the Respondent is not affiliated with nor authorized by Complainant in any way. The Complainant contends that 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. Moreover, neither licence 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 <ibollore.com> 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.

Besides, the disputed domain name has been used in a phishing scheme. Indeed, the Respondent attempted to pass off as an employee of the Complainant's subsidiary BOLLORE LOGISTICS, in order to receive payment into a false bank account. Using the domain name in this manner is neither a bona fide offering of goods or services, nor a non-commercial or fair use.

Accordingly, the Respondent has no rights or legitimate interests to the disputed domain name.

The Complainant further contends the Complainant's trademark BOLLORE is well-known and distinctive. Past panels have confirmed the notoriety of the trademark BOLLORE. Besides, the Respondent has used the disputed domain name in a phishing scheme. Indeed, the same day the disputed domain name was registered, the Respondent used it to pass off as Mr. SCHORNSTEIN, accountant of the Complainant's subsidiary BOLLORE LOGISTICS. That way, the Respondent attempted to receive payment in place of BOLLORE LOGISTICS. It is well-established that using a domain name for purposes of phishing or other fraudulent activity constitutes solid evidence of bad faith use.

Consequently, the Complainant concludes that the Respondent has registered and is using the disputed domain name in bad faith.

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

For the Complainant to succeed it must prove, within the meaning of paragraph 4(a) of the Policy, that:

(i) The domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and

(ii) The respondent has no rights or legitimate interests in respect of the domain name; and

(iii) The domain name has been registered and is being used in bad faith.

I. Identical or Confusingly Similar

The Complainant has established the fact that it has valid rights for the international trademark No 704697 BOLLORE registered since December 11, 1998, and that it owns domain name <bollore.com> including the trademark BOLLORE. The disputed domain name has been registered on May 16, 2019, i.e. more than 20 years after the trademark registration, and wholly incorporates the Complainant's trademark and is therefore confusingly similar to it.

The letter "i" used in the front of word "BOLLORE" does not change the overall impression of the designation as being connected to the Complainant or its trademark. The letter "i" in the beginning of the trademarks or domain names usually points to the "internet" or "international" and connects the trademark to the internet or international activities. Therefore, the using of letter "i" in the front of trademark BOLLORE more likely could lead to the connection of the Complainant or its business to internet (or international activities).

The addition of the generic top level domain ".COM" does not change the overall impression of the designation as being connected to Complainant's trademark as well.

The Panel therefore considers the disputed domain name to be confusingly similar to the Complainant's trademark BOLLORE which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

II. Rights or Legitimate Interests

The Complainant has established a prima facie case (not challenged by the Respondent who did not filed any response to the complaint) that the Respondent has no rights or legitimate interests in the disputed domain name, since the Respondent is not related in any way with the Complainant and there is no indication that the Respondent is commonly known by the term "BOLLORE" or that the Respondent is using the disputed domain name in connection with a bona fide offering of goods or services.

Moreover as the disputed domain name has been used in a phishing scheme to pass off as an employee of the Complainants subsidiary (see below), such using is neither a bona fide offering of goods or services nor a non-commercial or fair use.

The Panel therefore considers that the Respondent has no rights or legitimate interests in respect of the disputed domain

name within the meaning of paragraph 4(a)(ii) of the Policy.

III. Registered and Used in Bad Faith

It has been concluded in the past that the Complainant's trademark is well-known (CAC case No. 102015, BOLLORE SA v. mich john or No. 101696, BOLLORE v. Hubert Dadoun). It could be therefore concluded that the Respondent had the Complainant and its trademark in mind when registering the disputed domain name.

Moreover, the same day the disputed domain name was registered, the disputed domain name was used by the sender of an e-mail addressed to the business partner of BOLLORE asking the payment to another bank account and trying to pass the sender (with e-mail address @ibollore.com) off as the employee of Complainant's subsidiary (with e-mail address @bollore.com). The Panel holds that Respondent's registration and use of the disputed domain name as part of the phishing scheme and is sufficient evidence of bad faith registration and use of the disputed domain name.

And furthermore, as the disputed domain name was used in a phishing scheme targeting to the Complainant immediately after its registration, it is clear that the Respondent registered the disputed domain name with the knowledge of the Complainant's rights.

The Panel therefore considers that 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.

The Panel finally considers that the Complainant has shown that the disputed domain name <ibollore.com> is identical or confusingly similar to a trademark in which the Complainant has rights, the Respondent has no rights or legitimate interests in respect of the disputed domain name and the disputed domain name has been registered and is being used in bad faith. The Complainant has thus established all three elements of 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. **IBOLLORE.COM**: Transferred

PANELLISTS

Name	**JUDr. Petr Hostaš**

DATE OF PANEL DECISION 2019-06-18

Publish the Decision