Decision for dispute CAC-UDRP-102785

Case number	CAC-UDRP-102785
Time of filing	2019-11-19 09:06:13
Domain names	bollore-logistics-uk.com

Case administrator

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

Complainant

Organization	BOLLORE

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Name	Kali Jim

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 has proven to be the owner of the BOLLORE' LOGISTICS marks.

The Complainant is, inter alia, the owner of the following trademarks:

International trademark registration no. 1025892 “BOLLORE LOGISTICS” (device), granted on July 31, 2009;

International trademark registration no. 1302823 “BOLLORE LOGISTICS” (device), granted on January 27, 2016.

FACTUAL BACKGROUND

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

The Complainant was founded in 1822. Thanks to a diversification strategy based on innovation and international development, it holds strong positions in all its activities around three business lines, Transportation and Logistics, Communication and Media, and Electricity Storage Solutions.

The Complainant is one of the 500 largest companies in the world. The BOLLORE Group has 81,003 employees world-wide with a turnover equaling 23,024 million euro based on 2017 results.

Its subsidiary BOLLORE LOGISTICS is one of the 10 leading worldwide transport and logistics companies, with a presence on all five continents (609 offices in 107 countries and more than 20,600 employees).

The Complainant also owns various domain names, such as <bollore-logistics.com> which has been registered since January 20, 2009, and communicates on the internet through these domain names.

The disputed domain name <bollore-logistics-uk.com> was registered on November 14, 2019. The disputed domain name points to an inactive page.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant contends that:

1. The disputed domain name is confusingly similar to the Complainant's trademarks

The Complainant contends that the disputed domain name <bollore-logistics-uk.com> is confusingly similar to the trademark BOLLORE LOGISTICS.

The Complainant further affirms that, the addition of the geographical term “UK” (which refers to the United Kingdom) and two dashes in the trademark is not sufficient to escape the finding that the domain name is confusingly similar to the trademark BOLLORE LOGISTICS. The extension GTLD “.com” does not serve to distinguish the disputed domain name from the BOLLORE LOGISTICS mark, which is the distinctive component of the domain name.

2. The Respondent does not have any rights or legitimate interest in the disputed domain name

The Complainant contends that the Respondent is not commonly known by the disputed domain name, but as “Kali Jim”, and that the Respondent is not affiliated with or authorized by the Complainant in any way. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and is not related to the Complainant’s business in any way. The Complainant does not carry out any activity for, nor has any business dealings with, the Respondent. Finally, the disputed domain name has pointed to an inactive website since its registration.

3. The disputed domain name has been registered and is being used in bad faith

The Complainant contends that owing to the renown of the Complainant’s trademarks, it can be presumed that the Respondent had actual knowledge of the Complainant’s distinctive trademarks.

The Complainant further contends that 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 passing off, being an infringement of consumer protection legislation, or being an infringement of the Complainant’s rights under trademark law. In addition, the passive holding of the disputed domain name should be considered a use in bad faith.

RESPONDENT:

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

A) Confusing similarity

The Panel agrees with the Complainant's assertions that the addition of the geographical term “UK” and two dashes in the trademark does not prevent the disputed domain name from being confusingly similar to the Complainant’s trademarks.

B) Lack of legitimate rights or interests

The disputed domain name is a distinctive, non-descriptive name. It is unlikely that the Respondent registered the disputed domain name without having the Complainant firmly in mind. The Complainant’s assertions that the Respondent is not commonly known by the disputed domain name and is not affiliated with nor authorized by the Complainant are sufficient to constitute a prima facie demonstration of absence of rights or legitimate interest in the disputed domain name on the part of the Respondent. The burden of evidence therefore shifts to the Respondent to show, using tangible evidence, that it does have rights or legitimate interests in the disputed domain name. The Respondent has made no attempt to do so.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

C) Registered or Used in Bad Faith

The Complainant gives sound bases for its contention that the disputed domain name was registered and has been used in bad faith.

Firstly, owing to the distinctiveness of the Complainant's trademarks and reputation, it is reasonable to infer that the Respondent registered the disputed domain name with full knowledge of the Complainant's trademarks, and so the Panel finds on the balance of probabilities that the Respondent was aware of the Complainant’s trademarks when registering the disputed domain name.

Secondly, the Panel accepts the Complainant’s unchallenged assertion that 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 passing off, being an infringement of consumer protection legislation, or being an infringement of the Complainant’s rights under trademark law.

Thirdly, it appears from the document provided by the Complainant that the Respondent is passively holding the disputed domain name.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BOLLORE-LOGISTICS-UK.COM**: Transferred

PANELLISTS

Name	**Dr. Fabrizio Bedarida**

DATE OF PANEL DECISION 2019-12-18

Publish the Decision