Decision for dispute CAC-UDRP-103037

Case number	CAC-UDRP-103037
Time of filing	2020-04-29 11:35:43
Domain names	b0ll0re.com

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	BOLLORE SE

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Name	ronaldo paul

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 24, 1997.

The disputed domain name <b0ll0re.com> was registered on April 22, 2020, and is not being used in connection with an

active website.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS

THE COMPLAINANT
The Complainant contends that the disputed domain name <b0ll0re.com> is confusingly similar to the Complainant's trademark BOLLORÉ, as it includes the trademark in its entirety with the mere difference that the letters "o" have been substituted by the number "0" – which 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 BOLLORÉ 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 distinctive and well-known and the Respondent chose to associate the disputed domain name to the Complainant's well-known trademark BOLLORÉ, thus creating a likelihood of confusion with the Complainant as to the source, affiliation or endorsement of the disputed domain name.

As to the use of the disputed domain name, the Complainant states that, although the disputed domain name is currently not used in connection with an active website, the Respondent has acted in bad faith as the disputed domain name has been set up with several active MX Records, which is indicative of bad faith registration and use because any email emanating from the disputed domain name can in no way be used for any good faith purpose.

THE RESPONDENT

The Respondent did not reply to the Complainant's contentions and is in default.

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 consists of a clear misspelling of the core of the Complainant's trademark "bolloré", where the two letters "o" have been

replaced by the number “0” and the accent on the last letter “e” has been removed. As stated in a number of prior decisions rendered under the UDRP, these minor changes and the addition of the Top-Level Domain “.com” are not sufficient to prevent a finding of confusing similarity.

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 not pointed the disputed domain name to an active website 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.

The Panel also notes that, as highlighted by the Complainant, the disputed domain name has been configured with the indication of MX records, a circumstance that suggests that the domain name <b0ll0re.com> might be used by the Respondent to deliver email communications to third parties from email addresses based on the disputed domain name, possibly pretending to be the Complainant. In light of Internet users’ presumption of trustworthiness in domain names consisting in or incorporating registered trademarks, the Panel finds that, when, like in the present case, domain names are so obviously connected to the trademark owner, the potential risks posed by phishing are to be considered an additional circumstance evidencing bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **B0LL0RE.COM**: Transferred

PANELLISTS

Name	**Luca Barbero**

DATE OF PANEL DECISION 2020-06-08

Publish the Decision