Decision for dispute CAC-UDRP-103245

Case number	CAC-UDRP-103245
Time of filing	2020-08-20 09:51:01
Domain names	bollorc.com

Case administrator

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

Complainant

Organization	BOLLORE SE

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Organization	Construction and Extraction Occupations

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings that relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of several trademarks including the term “BOLLORE”, such as the international trademark registration BOLLORE no 70469.

The Complainant also owns and communicates on the World Wide Web through various domain names, the main one being <bollore.com>, registered on July 25, 1997.

FACTUAL BACKGROUND

The Complainant claims to be a company with its legal seat in Paris, France, which was founded in 1822. The Complainant asserts to be one of the world´s largest 500 companies operating in three lines of business: transportation and logistics, communication and media, and electricity storage and solutions.

The Complainant asserts that the disputed domain name <bollorc.com> was registered on August 13, 2020 and that no website is currently published under the disputed domain name, but a mail exchanger record (MX record) is configured, which specifies the mail server responsible for accepting e-mail messages on behalf of the disputed domain name.

The Complainant further asserts that:

- the Respondent is not known as by 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 trademarks, or apply for registration of the disputed domain names by the Complainant; and

- the Respondent was aware of the Complainant when registering the disputed domain name on August 13, 2020.

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

(1)
The Complainant has, to the satisfaction of the Panel, shown that the disputed domain name is confusingly similar to the Complainant's trademarks (within the meaning of paragraph 4(a)(i) of the Policy).

Indeed, the disputed domain name contains an obvious misspelling of the Complainant's trademark "BOLLORE" and the substitution of the "E" by the "C" is not sufficient to exclude the likelihood of confusion existing, as they look highly similar from a visual perspective.

(2)
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).

The Panel finds that the Complainant successfully submitted prima facie evidence that the Respondent has made no use of, or demonstrable preparations to use, neither of the disputed domain name in connection with a bona fide offering of goods or services, nor is making a legitimate non-commercial or fair use of the disputed domain name, nor is commonly known under the disputed domain name, but as "Construction and Extraction Occupations".

This prima facie evidence was not challenged by the Respondent, which did not file any Response to the Complaint.

As a matter of fact, there are no arguments why the Respondent could have own rights or legitimate interests in the disputed domain name as the Respondent operates under the name “Construction and Extraction Occupations”.

"BOLLORE" is definitely is a distinctive sign used by the Complainant as trademark in order to denote its services. Therefore, the Panel accepts the contentions of the Complainant that the Respondent has no such rights or legitimate interests in the disputed domain name.

(3)
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).

There is no explanation proving that the Respondent has made use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services, nor that it is making a legitimate non-commercial or fair use of the disputed domain name, nor that is commonly known under the disputed domain name.

In the absence of a Response and given the considerable reputation of the Complainant and its trademark, the Panel infers that the Respondent had the Complainant's trademarks in mind when registering the disputed domain name. As a matter of fact, it is not possible to conceive of any plausible actual or contemplated active use of the disputed domain name by the Respondent that would not be illegitimate, such as an infringement of the Complainant’s rights under trademark law.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BOLLORC.COM**: Transferred

PANELLISTS

Name	**Prof. Dr. Lambert Grosskopf, LL.M.Eur.**

DATE OF PANEL DECISION 2020-09-22

Publish the Decision