Decision for dispute CAC-UDRP-103337

Case number	CAC-UDRP-103337
Time of filing	2020-10-06 12:51:49
Domain names	fr-bollore-energy.com

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)

Complainant

Organization	BOLLORE SE

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Name	Franck Bollore

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 owns the following trade mark registrations:
• International trade mark for BOLLORE, number 704697, registered on 11 November 1998 in classes 16, 17, 34, 35, 36, 38 and 39.
• International trade mark registration for BOLLORE ENERGY, number 1303490, registered on 22 January 2016 in classes 1, 4, 7, 9, 11, 35, 36, 39, 40, and 42.

FACTUAL BACKGROUND

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

The Complainant was founded in 1822 and is listed on Paris Stock Exchange. Its main business activities are transportation and logistics; communication and media; electricity storage and solutions. Its subsidiary, Bollore Energy, is a key player in oil distribution and oil logistics in France, Switzerland and Germany.

The Complainant owns several trade marks including the term “BOLLORE” that predate the registration of the disputed

domain name. It also owns various domain names, including <bollore-energy.com>, registered on 30 September 2015.

The disputed domain name was registered on 30 September 2020 and resolves to a parking page with commercial links.

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 trade mark 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

Paragraph 4 (a) of the Policy requires the Complainant to prove each of the following three elements:
(i) the disputed domain name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights;
(ii) the Respondent has no rights or legitimate interests in the disputed domain name; and
(iii) the disputed domain name has been registered and used in bad faith.

A. IDENTICAL OR CONFUSINGLY SIMILAR

The Complainant asserts that the disputed domain name is confusingly similar to its trade mark, BOLLORE ENERGY, and says that adding “fr” and two hyphens does not avoid the disputed domain name being confusingly similar to its trade mark BOLLORE ENERGY.

It is generally accepted that the addition of the top-level suffix “com.” is a standard registration requirement. It does not add any distinctiveness to a domain name and can be disregarded when assessing whether the disputed domain name is confusingly similar to the Complainant’s trade mark.

Adding the geographical “fr”, the abbreviation of France, and hyphens between the two words that comprise the Complainant’s trade mark, BOLLORE ENERGY, does not avoid the overall impression that the disputed domain name is confusingly similar to the Complainant’s trade mark.

The Panel finds that the disputed domain name is confusingly similar to the Complainant’s trade mark BOLLORE ENERGY and that the requirements of paragraph 4(a)(i) of the Policy have been met.

B. NO RIGHTS OR LEGITIMATE INTEREST IN THE DISPUTED DOMAIN NAME

The Complainant asserts that the Respondent has no rights or legitimate interest in the domain name and says that:

(i) it was unable to find the Respondent's listed address or any "Franck Bollore" from MONTMORENCY;
(ii) the Complainant is not affiliated with nor has any business with the Respondent;
(iii) the Respondent is not licenced or authorised to use of the Complainant's trade mark BOLLORE ENERGY, nor authorised to apply for registration of the disputed domain name; and
(iv) the disputed domain name resolves to a parking page with commercial links, which is not a bona fide offering of goods or services or legitimate non-commercial or fair use (see for instance WIPO Case No. D2007-1695, Mayflower Transit LLC v. Domains by Proxy Inc./Yariv Moshe).

The Complainant has made out a prima facie case that the Respondent lacks rights or legitimate interest in the disputed domain name. The burden of proof now shifts to the Respondent to show that it has rights or legitimate interests in the disputed domain name.

The Respondent has not filed a Response nor disputed any of the Complainant's submissions. There is no evidence to show that the Respondent has any rights or a legitimate interest in the disputed domain name. It appears from the evidence submitted that the Respondent has provided false contact details. He is not commonly known by the disputed domain name and is not authorised to use the Complainant's trade mark, BOLLORE ENERGY.

The disputed domain name was registered using a privacy service. It incorporates the Complainant's trade mark and resolves to a parking page with commercial links. This use is not a bona fide offering of goods or services nor a legitimate non-commercial or fair use.

There appears no reason why the Respondent would combine the abbreviation "fr" and the words Bollore and Energy, all of which are closely associated with the Complainant and its business, other than to mislead internet users into believing that the disputed domain name is some way associated with the Complainant.

Taking the above factors into consideration the Panel finds that the Respondent has no rights or legitimate interest in the disputed domain name and that the requirements of paragraph 4(a)(ii) of the Policy have been met.

C REGISTERED AND IS BEING USED IN BAD FAITH

The Complainant asserts that the disputed domain name has been registered and is being used in bad faith. It asserts that:
(i) the Google results for the terms "FR BOLLORE ENERGY" refers to the Complainant' and its subsidiary BOLLORE ENERGY;
(ii) the disputed domain name is confusingly similar to its distinctive trade mark and the Respondent must have known of the Complainant's brand when it registered the disputed domain name; and
(iii) the disputed domain name resolves to a parking page with commercial links, and the Respondent has attempt to attract Internet users for commercial gain, which is evidence of bad faith;

The Complainant's distinctive trade mark predates the registration of the disputed domain name. There appears no reason why the Respondent would register a domain name that incorporates the Complainant's mark and permit it to be used in connection with a website that has commercial links, other than with the intent to attract Internet users for commercial gain by creating a likelihood of confusion with the Complainant's trade mark.

The Panel concludes that the disputed domain name was both registered and is being used in bad faith and that the requirements of paragraph 4(a)(iii) of the Policy have been met.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

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

PANELLISTS

Name	**Veronica Bailey**

DATE OF PANEL DECISION 2020-11-10

Publish the Decision