Decision for dispute CAC-UDRP-103749

Case number	CAC-UDRP-103749
Time of filing	2021-04-21 10:45:40
Domain names	bollore-logsin.com

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)

Complainant

Organization	BOLLORE SE

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Organization	bollore-logsin

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 BOLLORE trademark since at least 1998, including but not limited to the following:

• INT. TM n° 704697, Cl. 16, 17, 34, 35 36. 38, 39

Furthermore, the Complainant is also the owner of various domain names including <bollore.com>, registered on July 24, 1997.

FACTUAL BACKGROUND

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

The Complainant was founded in 1822 and it now holds strong positions in all its activities around three business lines, Transportation and Logistics, Communication and Media, Electricity Storage and solutions.

The Complainant 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. The BOLLORE Group has 84,000 employees world-wide with the turnover that equals to 24,843 million euros, operating income in the amount of 1,259 million euros and the shareholders' equity in the amount of 25,942 million euros based on the results in 2019.

The disputed domain name was registered on April 14, 2021 and resolves to a parking page with MX servers configured.

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).

First, the Complainant claims rights in the BOLLORE mark through its trademark registration. By virtue of its trademark registrations, Complainant has proved that it has rights in the mark under paragraph 4(a) of the Policy. See Avast Software s. r. o. v Milen Radumilo, 102384, (CAC 2019-03-12).

Second, the Complainant claims that wholly incorporating Complainant's BOLLORE trademark in the disputed domain name is sufficient to establish confusingly similarity under the first element under UDRP. The Panel accepts that the prominent part of the disputed domain name is confusingly similar to Complainant's trademark BOLLORE, and the additional hyphen and term "logsin" do not reduce the similarity. In addition, the “.com” generic top-level domain (“gTLD”) is irrelevant when establishing whether or not a mark is identical or confusingly similar for the purposes of paragraph 4(a)(i) of the Policy.

For the foregoing reasons, the Panel finds the Complainant has satisfied 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). More specifically, the Complainant must first make a prima facie case that the Respondent lacks rights and legitimate interests in the disputed domain name, and the burden of prove then shifts to the Respondent to show it does have rights or legitimate interests. See PepsiCo, Inc. v Smith power production, 102378, (CAC 2019-03-08) ("The Panel finds that the Complainant has made out a prima facie case that arises from the considerations above. All of these matters go to make out the prima facie case against the Respondent. As the Respondent has not filed a Response or attempted by any other means to rebut the prima facie case against it, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.").

First, the Respondent is not known by the Complainant. The Complainant claims that the Respondent is not affiliated with nor authorized by the Complainant in any way. Neither license nor authorization has been granted to the Respondent to make any use of Complainant’s BOLLORE trademark, or apply for registration of the disputed domain name.

Second, the Complainant contends that the disputed domain name resolves to a parking page. The Respondent did not make any use of disputed domain name since its registration, and it further confirms that Respondent has no demonstrable plan to use the disputed domain name. It demonstrates a lack of legitimate interests in respect of the disputed domain name.

The Panel finds that the Complainant has established a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name. The burden of proof has been shifted to the Respondent to prove that it has right or legitimate interests to the disputed domain name. However, the Respondent has not submitted any response to rebut the assertion.

For the foregoing reasons, the Panel finds the Complainant has satisfied 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).

The Complainant claims that its BOLLORE trademark is well-known and distinctive, and the Complainant is one of the 500 largest companies in the world. Given the distinctiveness and reputation of Complainant's BOLLORE trademark, the Complainant contends that it is inconceivable that the Respondent could have registered the disputed domain name <bollore-logsin.com> without actual knowledge of Complainant's rights in the trademark. Considering the disputed domain name was registered more than 20 years later than Complainant's BOLLORE trademark and without having any explanation submitted by the Respondent, the Panel accepts that the Respondent knew or should have known of Complainant's trademark and the registration of the disputed domain name was in bad faith, see SANDRO ANDY v. ji zhou chen, 102369 (CAC 2019-03-25).

The Complainant also contends that the disputed domain name resolves to a parking page, the Respondent has not demonstrated any activity in respect of the disputed domain name, and 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 by being a passing off, an infringement of consumer protection legislation, an infringement of the Complainant’s rights under trademark law, or an attempt to attract, for commercial gain, Internet users to his own website, by creating a likelihood of confusion with Complainant's trademark as to the source, sponsorship, affiliation or endorsement of Respondent's website. Considering the reputation and distinctiveness of Complainant's BOLLORE trademark, the Panel accepts that passive holding of the disputed domain name constitutes use of the disputed domain name in bad faith, see ARCELORMITTAL S.A. v. hardik korat, 102381 (CAC 2019-04-22).

For the foregoing reasons, the Panel finds the Complainant has satisfied 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

Having established all three elements required under the UDRP Policy, the Panel concludes that relief shall be granted.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BOLLORE-LOGSIN.COM**: Transferred

PANELLISTS

Name	**Mr Paddy TAM**

DATE OF PANEL DECISION 2021-05-14

Publish the Decision