

Decision for dispute CAC-UDRP-103857

Case number	CAC-UDRP-103857
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Time of filing	2021-06-09 10:04:15
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Domain names	bollorelogistics.info
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Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
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Complainant

Organization	BOLLORE SE
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Complainant representative

Organization	Nameshield (Laurent Becker)
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Respondent

Organization	BOLLORE LOGISTICS AUSTRALIA PTY LTD
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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 a large portfolio of trademarks including the wording "BOLLORE LOGISTICS" in several countries, such as the international trademark BOLLORE LOGISTICS®, registration n° 1025892, registered since July 31, 2009, and the international trademark BOLLORE LOGISTICS®, registration n° 1302823, registered since January 27, 2016.

FACTUAL BACKGROUND

BOLLORE (the "Complainant") was founded in 1822. Thanks to a diversification strategy based on innovation and international development, it now holds strong positions in all its activities around three business lines, Transportation and Logistics, Communication and Media, Electricity Storage and solutions (please see their website at: www.bollore.com).

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 Respondent used the name of Complainant's subsidiary ("BOLLORE LOGISTICS AUSTRALIA PTY LTD") and its post address. The disputed domain name <bollorelogistics.info> was registered on March 14, 2021. The disputed domain name resolves to the BOLLORE LOGISTICS' official website.

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). The disputed domain name <bollorelogistics.info> is identical to the trademark BOLLORE LOGISTICS ®. Indeed, the domain name includes it in its entirety.

The addition of the gTLD suffix ".INFO" is not sufficient to escape the finding that the disputed domain name is identical to the Complainant's trademark and does not change the overall impression of the designation as being connected to its trademark.

Indeed, as reminded in the WIPO Overview 3.0 §1.11.1, "the applicable Top Level Domain ("TDL") in a domain name (e.g., ".com", ".club", ".nyc") is viewed as a standard registration requirement and as such is disregarded under the first element confusion similarity test".

Therefore, the Panel concludes that the disputed domain name <bollorelogistics.info> is identical to Complainant's trademark BOLLORE LOGISTICS®.

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).

According to the WIPO Case No. D2003-0455, Croatia Airlines d. d. v. Modern Empire Internet Ltd., the Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a) (ii) of the Policy.

The disputed domain name was registered in the name of Complainant's Australian subsidiary ("BOLLORE LOGISTICS AUSTRALIA PTY LTD"). However, the Registrant's e-mail address (info@bollorelogistics.info) is not affiliated with BOLLORE LOGISTICS AUSTRALIA PTY LTD. Therefore, the Complainant asserts that the Respondent uses the identity of the Complainant's subsidiary in order to increase the likelihood of confusion with the Complainant.

In the previous complaint, the Complainant's subsidiary received the complaint by post but did not respond to the complaint because it believed it was an attempt at fraud.

Furthermore, the disputed domain name redirects to the BOLLORE LOGISTICS's official website <https://www.bollore-logistics.com/>. The Respondent is not making a bona fide offering of goods or services by means of the disputed domain name, or a legitimate non-commercial or fair use of it.

For instance:

- Forum Case No. FA 1363660, Better Existence with HIV v. AAA ("[E]ven though the disputed domain name still resolves to Complainant's own website, Respondent's registration of the disputed domain name in its own name fails to create any rights or legitimate interests in Respondent associated with the disputed domain name under Policy 4(a)(ii).");

- Forum Case No. FA 1766366, Lockheed Martin Corporation v. Richard F Ambrose / Lockheed Martin Corporation (“[...] in that the domain name redirects Internet users to Complainant’s own official website. Such a use is indeed neither a bona fide offering of goods or services by means of the domain name under Policy 4(c)(i) nor a legitimate noncommercial or fair use of it under Policy 4(c)(iii)”);

- Forum Case No. FA 1337658, Direct Line Ins. plc v. Low-cost-domain (“The Panel finds that using Complainant’s mark in a domain name over which Complainant has no control, even if the domain name redirects to Complainant’s actual site, is not consistent with the requirements of Policy 4(c)(i) or 4(c)(iii) . . .”).

Accordingly, the Respondent has no rights or legitimate interests to the disputed domain name <bollorelogistics.info>.

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 disputed domain name <bollorelogistics.info> is identical to its well-known and distinctive trademark and the domain name associated. Past panels have confirmed the notoriety of the trademark BOLLORE LOGISTICS® in the following cases:

- CAC Case No. 102031, BOLLORE v. Donald Shillam (“The Panel concludes that the Complainant's BOLLORE LOGISTICS trademark has a significant reputation and is of distinctive character.”);

- CAC Case No. 101500, BOLLORE SA v. JESSICA SAXTON (“the Complainant’s trademark [BOLLORE LOGISTICS] has a strong reputation and is widely known”).

Thus, given the distinctiveness of the Complainant’s international trademark and its reputation, the Complainant claims that the Respondent has registered the domain name in knowledge of the Complainant, which evidences bad faith.

Moreover, the disputed domain name redirects to the Complainant’s own official website <https://www.bollore-logistics.com/>. Thus, the Complainant contends that the Respondent has knowledge of the Complainant’s rights prior to the registration of the disputed domain name, which is a hallmark of bad faith. Please see Forum Case No. FA 1382148, Verizon Trademark Servs. LLC v. Boyiko (“The Panel finds that Respondent’s registration and use of the confusingly similar disputed domain name, even where it resolves to Complainant’s own site, is still registration and use in bad faith pursuant to Policy 4(a)(iii).”).

Finally, the Registrant used the name of Complainant’s subsidiary (“BOLLORE LOGISTICS AUSTRALIA PTY LTD”) and its post address in order to create a likelihood of confusion. This practice is in bad faith, see decision Forum FA2103001937309, Ryan Serhant v. Ryan Serhant (“The use of the name of a colleague of the Complainant in the fraudulent phishing activity and the Complainant’s mailing address in the WhoIS details for the Domain Name shows that the Respondent is aware of the Complainant, his rights, business and services. Indeed use of a false name and address for WhoIS details of a domain name also indicates bad faith.”).

Thus, the disputed domain name has been registered by the Respondent in an effort to take advantage of the good reputation Complainant had built up in its BOLLORE LOGISTICS® trademarks, with the sole aim to create a likelihood of confusion with the Complainant’s trademarks and domain names.

Thus, the Panel concludes that the disputed domain name <bollorelogistics.info> was registered and is being used in bad faith.

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

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The Respondent used the name of Complainant's subsidiary ("BOLLORE LOGISTICS AUSTRALIA PTY LTD") and its post address in order to create a likelihood of confusion. This practice is in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BOLLORELOGISTICS.INFO**: Transferred

PANELLISTS

Name	Thomas Hoeren
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DATE OF PANEL DECISION	2021-07-02
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Publish the Decision