

Decision for dispute CAC-UDRP-104125

Case number	CAC-UDRP-104125
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Time of filing	2021-11-02 09:32:37
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Domain names	vincentbollaré.com
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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 S.A.S.
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Respondent

Name	Ciaran Canning
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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 has evidenced to be the owner of the following International (IR) trademark registration:

- Word-/device mark BOLLORÉ, World Intellectual Property Organization (WIPO), Registration No.: 704697, Registration Date: December 11, 1998, Status: active, with protection for numerous countries worldwide.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

First, the disputed domain name <vincentbollaré.com> is confusingly similar to the Complainant's trademark BOLLORE®. Indeed, the trademark BOLLORE® is included in its entirety. It is well-established that "a domain name that wholly incorporates a Complainant's registered trademark may be sufficient to establish confusing similarity for purposes of the UDRP". The Complainant also contends that addition of the surname "VINCENT" (in reference with the name of the Bolloré group's CEO)

and the generic Top-Level Domain suffix “.COM” does not change the overall impression of the designation as being connected to the Complainant’s trademark.

Second, the Respondent is not known as the disputed domain name in the Whois database, and has not acquired trademarks mark rights on this term. The Complainant contends that the Respondent is not affiliated with nor authorized by BOLLORE in any way. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant does not carry out any activity for, nor has any business with the Respondent. Moreover, neither license nor authorization has been granted to the Respondent to make any use of the Complainant’s trademark BOLLORE®, or apply for registration of the disputed domain name <vincentbollaré.com> by the Complainant. Also, the disputed domain name <vincentbollaré.com> redirects to parking page with commercial links. Past panels have found it is not a bona fide offering of goods or services or legitimate non-commercial or fair use.

Thirdly, given the distinctiveness of the Complainant’s trademarks and reputation, the Complainant contends that it is inconceivable that the Respondent could have registered the disputed domain name <vincentbollaré.com> without actual knowledge of Complainant’s rights in the trademark. Furthermore, the disputed domain name resolves to a parking page with commercial links. The Complainant contends the Respondent has attempted to attract Internet users for commercial gain to his own website thanks to the Complainant’s trademarks for its own commercial gain, which is an evidence of bad faith.

RESPONDENT:

The Respondent provided its explanation as follows:

"I legitimately purchased the domain on a legitimate website that sells domains (GoDaddy.com). My perspective on the situation, is that my actions were completely in line with the law and I've done nothing wrong. I purchased a domain that was openly available, as an investment, like what the majority of domains are in reality. I don't have anything more to add at this time, but I request the case is dropped and the domain that I legitimately purchased is unlocked and returned to me, the owner."

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

The Panel finds that the disputed domain name is confusingly similar to the BOLLORE trademark in which the Complainant has rights. The disputed domain name incorporates the BOLLORE trademark in its entirety. Numerous UDRP panels have recognized that incorporating a trademark in its entirety can be sufficient to establish that the disputed domain name is at least confusingly similar to a registered trademark. Moreover, there also is consensus view among UDRP panels that the mere addition of descriptive or other terms, such as the name “Vincent” (which even directly refers to the Complainant’s CEO) is not capable to dispel the confusing similarity arising from such incorporation of the Complainant’s BOLLORE trademark in the disputed domain name.

Therefore, the Complainant has established the first element under the Policy as set forth by paragraph 4(a)(i).

Also, the Complainant contends, and the Respondent has not precisely objected to these contentions, that the Respondent has neither made use, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services, nor is the Respondent making a legitimate noncommercial or fair use of the disputed domain name, nor is the Respondent commonly known thereunder. The Respondent has not been authorized to use the Complainant's BOLLORE trademark, either as a domain name or in any other way. Also, there is no reason to believe that the Respondent's name somehow corresponds with the disputed domain name and the Respondent does not appear to have any trademark rights associated with the terms "Vincent" and/or "Bolloré" on its own. Moreover, the disputed domain name at least at some point before the filing of the Complaint redirected to a standard Pay-Per-Click (PPC) website with hyperlinks to a variety of third parties' commercial websites. Many UDRP panels have found that the generation of PPC revenues by using a domain name that is confusingly similar to a trademark neither qualifies as a bona fide offering of goods or services nor as a legitimate noncommercial or fair use under the UDRP. Accordingly, the Complainant has established a prima facie case that the Respondent has no rights or legitimate interests in respect of in the disputed domain name. Now, the burden of production shifts to Respondent to come forward with appropriate allegations or evidence demonstrating to the contrary. The Panel has well noted the Respondent's contention that it purchased the disputed domain name as an investment because it was openly available. Arguing that way, the Respondent has, however, failed to refute that this investment builds on the Complainant's trademark's reputation and appears to exploit it in an unjustified manner. Against this background, the Panel has no difficulty in finding that the Respondent indeed has no rights or legitimate interests in respect of the disputed domain name.

Therefore, the Complainant has also satisfied paragraph 4(a)(ii) and, thus, the second element of the Policy.

The Panel finally holds that the disputed domain name was registered and is being used by the Respondent in bad faith. It is undisputed between the Parties that the Complainant's BOLLORE trademark enjoys considerable recognition throughout the world; also, the way in which the disputed domain name has been set up (namely as a combination of the BOLLORE trademark together with the first name "Vincent" of the Complainant's CEO) leaves little, if no doubt that the disputed domain name directly aims at targeting the Complainant's BOLLORE trademark. Therefore, redirecting the disputed domain name which is confusingly similar to the Complainant's BOLLORE trademark to a typical PPC website which shows a variety of hyperlinks to active third parties' websites for the obvious purpose of generating PPC revenues, is a clear indication that the Respondent intentionally attempted to attract, for commercial gain, Internet users to its own website by creating a likelihood of confusion with the Complainant's BOLLORE trademark as to the source, sponsorship, affiliation or endorsement of this website. Such circumstances are evidence of registration and use of the disputed domain name in bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

Therefore, the Complainant has also satisfied the third element under the Policy as set forth by paragraph 4(a)(iii).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **VINCENTBOLLORÉ.COM**: Transferred

PANELLISTS

Name	Stephanie G. Hartung, LL.M.
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DATE OF PANEL DECISION	2021-11-17
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Publish the Decision