

Decision for dispute CAC-UDRP-104107

Case number	CAC-UDRP-104107
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Time of filing	2021-10-29 09:34:48
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Domain names	bolloe.com
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Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (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

Organization	INVERSI ONES OLIVETE NUNEZ C.A
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OTHER LEGAL PROCEEDINGS

The Panel is unaware of any other pending or decided legal proceedings in respect of the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant relies upon the following registered trade mark, amongst others:

- International trade mark registration no. 704697, dated 11 December 1998, for the figurative mark BOLLORE, in classes 16, 17, 34, 35, 36, 38 and 39 of the Nice Classification.

(hereinafter, the Complainant's trade mark or the Complainant's trade mark BOLLORE).

FACTUAL BACKGROUND

The Complainant's contentions can be summarised as follows:

I. The disputed domain name is confusingly similar to a trade mark in which the Complainant has rights

The Complainant was founded in 1822 and operates businesses in three main sectors, namely transportation and logistics; communication and media; and electricity, storage and solutions.

The Complainant states that it is one of the 500 largest companies in the world, and that it is listed on the Paris Stock Exchange. In addition to its main areas of activities, the Bollere group manages a number of financial assets.

In addition to the trade mark mentioned above and numerous other trade marks, the Complainant advises that it is also the owner of various domain names which contain the term BOLLERE, including <bollore.com>, which was registered on 24 July 1997.

The disputed domain name <bolloe.com> was registered on 20 October 2021, and it resolves to a parking webpage.

The Complainant refers to prior UDRP decisions which have confirmed the Complainant's rights in "BOLLERE", as follows: CAC Case No. 102675, Bollere v Bill Brown Construction (in respect of the domain name <boiire.com>); CAC Case No. 102254, BOLLERE v Milton Liquors ILC (in respect of the domain name <bolcre.com>); and CAC Case No. 101974, BOLLERE v Adileo Barone (in respect of the domain name <bollore.com>).

The Complainant claims that the disputed domain name is an obvious misspelling of the Complainant's trade mark BOLLERE, these UDRP proceedings being a clear example of typosquatting.

II. The Respondent has no rights or legitimate interests in respect of the disputed domain name

The Complainant states that the Respondent is not affiliated with, nor authorised by, the Complainant in any way. The Respondent has no rights or legitimate interests in respect of the dispute domain name; the Respondent is not known by the disputed domain name, nor is the Respondent owner of any trade mark rights in the term "Bolloe".

Moreover, the disputed domain name is not actively used; the Respondent is not making a bona fide offering of goods or services by means of the disputed domain name, nor is the Respondent using the disputed domain name for legitimate non-commercial or fair use.

In view of the above, the Complainant concludes that the Respondent has no rights or legitimate interests in the dispute domain name.

III. The Respondent registered and is using the disputed domain name in bad faith

Registration

The Complainant states that the trade mark BOLLERE is well-known and distinctive, and that its fame has been acknowledged in prior UDRP decisions, namely: CAC Case No. 102015, BOLLERE SA v mich john; and CAC Case No. 101696, BOLLERE v Hubert Dadoun.

The Complainant further states that, given the distinctiveness and reputation of the trade mark BOLLERE, it is inconceivable that the Respondent could have registered the dispute domain name without actual knowledge of the Complainant's trade mark BOLLERE.

Use

The Complainant avers that the Respondent has intentionally used the disputed domain name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant as to the source, sponsorship, affiliation, or endorsement of that website.

The Complainant therefore concludes that the Respondent has registered and is using the disputed domain name in bad faith.

PARTIES CONTENTIONS

No administratively compliant Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown that the disputed domain name is identical or confusingly similar to a trade 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

Pursuant to Rule 15 of the UDRP Rules, the Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the UDRP Policy, the UDRP Rules, and any rules and principles of law that the Panel deems applicable.

Paragraph 4(a) of the UDRP Policy provides the following threshold for the Complainant to meet in order to divest the Respondent of the disputed domain name:

- i. The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- ii. The Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- iii. The disputed domain name has been registered and is being used in bad faith.

It is therefore incumbent on the Complainant the onus of meeting the above threshold. The evidentiary standard under the UDRP proceedings is the balance of probabilities and, on that basis, the Panel will now proceed to determine each of the three Policy elements in turn.

I. Identical or Confusingly Similar

The Panel is satisfied that the Complainant owns trade mark rights in “BOLLORE” since 1998.

The disputed domain name is <bolloe.com> and the Complainant’s trade mark is BOLLORE.

The Panel has no difficulty in finding that the disputed domain name is nearly identical, and confusingly similar, to the Complainant’s trade mark BOLLORE, in accordance with paragraph 4(a)(i) of the UDRP Policy, bearing in mind the only difference is one letter which is missing within the Complainant’s trade mark.

II. Rights or Legitimate Interests

The Respondent has defaulted in these UDRP proceedings. Nevertheless, the Panel is empowered to draw adverse inferences from the Respondent's silence (UDRP Rule 14 (b)).

The Panel notes that the Complainant firmly denies any affiliation and/or association with, or authorisation for, the Respondent of any nature. Furthermore, the Complainant argues that the Respondent is not known by the disputed domain name; that the Respondent does not hold any trade mark rights in the term "Bolloe"; and that the Respondent is not making a legitimate non-commercial or fair use of the disputed domain name.

The Respondent has submitted no evidence to refute any of the Complainant's assertions. On balance, the Panel considers the available evidence to lend credence to the Complainant's contentions.

The Panel therefore finds that the Complainant has succeeded under paragraph 4(a)(ii) of the UDRP Policy.

III. Registered and Used in Bad Faith

Registration

The following facts are compelling evidence to this Panel that the disputed domain name was registered in bad faith:

- The Complainant has been in operation since at least 1998, including in the United States, where the Respondent appears to be based;
- The Complainant operates its activities through the domain name <bollore.com>, which was registered in 1997;
- The disputed domain name <bolloe.com> was registered on 20 October 2021, many years after the Complainant commenced its business activities and registered its <bollore.com> domain name; and
- UDRP panels have consistently found that a typo of a widely-known trade mark can by itself create a presumption of bad faith (WIPO Panel Views on Selected UDRP Questions, Third Edition, paragraph 3.1.4 ("WIPO Jurisprudential Overview 3.0")), and the Panel accepts that the Complainant's trade mark is widely known.

Use

The Complainant alleges that the Respondent has engaged in the conduct described in paragraph 4(b)(iv) of the UDRP Policy, which provides as follows:

"(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location."

At the time of writing, the disputed domain name resolves to a website on which the following message is displayed: "This Account has been suspended. Contact your hosting provider for more information".

The Panel refers to paragraph 3.3 of the WIPO Jurisprudential Overview 3.0 to determine whether or not there has been bad faith use of the disputed domain name. UDRP panels have found that the non-use of a domain name may support a finding of

bad faith under certain circumstances. Factors that have supported such finding include, but are not limited to (i) the degree of distinctiveness or reputation of the complainant's trade mark; (ii) the respondent's default; (iii) the respondent's concealing of its identity; and (iv) the implausibility of any good faith use to which the domain name may be put.

The Panel considers that all four factors listed above are relevant and present in these UDRP proceedings.

The Panel therefore finds that the Complainant has succeeded under paragraph 4(a)(iii) of the UDRP Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **BOLLOE.COM**: Transferred

PANELLISTS

Name	Yana Zhou
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DATE OF PANEL DECISION 2021-12-05

Publish the Decision