

**Decision for dispute CAC-UDRP-104218**

Case number	<b>CAC-UDRP-104218</b>
Time of filing	<b>2021-12-08 09:22:30</b>
Domain names	<b>bollore-technologies.com, bollore-inc.com</b>

**Case administrator**

Organization	<b>Iveta Špiclová (Czech Arbitration Court) (Case admin)</b>
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**Complainant**

Organization	<b>BOLLORE SE</b>
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**Complainant representative**

Organization	<b>NAMESHIELD S.A.S.</b>
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**Respondent**

Name	<b>Oded Lotan</b>
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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 names.

## IDENTIFICATION OF RIGHTS

The Complainant is the owner of several trademarks including the term "BOLLORE", such as inter alia International Registration n° 704697 "BOLLORE".

The Complainant also owns and communicates on the Internet through various domain names, the main one being <bollore.com>, registered on July 24, 1997.

## FACTUAL BACKGROUND

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

The Complainant, "BOLLORE", was founded in 1822. Due 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.

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 79,000 employees world-wide with the revenue that equals to 24,109 million euros, operating income in the amount of 1,650 million euros and the shareholders' equity in the amount of 25,984 million euros based on the results in 2020.

The disputed domain names were registered on November 30, 2021 and resolves to a registrar parking page. Moreover, MX servers are configured.

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#### PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

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#### RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names are 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).

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#### 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 names (within the meaning of paragraph 4(a)(ii) of the Policy).

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#### BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names have been registered and are being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

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#### 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.

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#### PRINCIPAL REASONS FOR THE DECISION

According to Paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements to obtain an order that the disputed domain names should be transferred or cancelled:

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

The Panel has examined the evidence available to it and has come to the following conclusion concerning the satisfaction of the three elements of paragraph 4(a) of the Policy in these proceedings:

#### SIMILARITY TO THE EARLIER RIGHTS

The disputed domain names are confusingly similar to the Complainant's Trademark, company name and domain. This finding is based on the settled practice in evaluating the existence of a likelihood of confusion of

- a) disregarding the top-level suffix in the domain names (i.e. ".com"); and
- b) not finding that adding hyphenated generic or descriptive terms such as "-TECHNOLOGIES" or the legal form "-INC" would

be sufficient to distinguish a domain name from a trademark. The element “BOLLORE” is contained identically in the earlier rights and the in the disputed domain names. This element is the distinctive part of the disputed domain names.

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” (WIPO Case No. D2003-0888, Dr. Ing. h.c. F. Porsche AG v. Vasily Terkin).

By referring to the Complainant’s earlier corporate name as shown by the Complainant, the addition of the term “TECHNOLOGIES” increases the likelihood of confusion by association.

In past decisions, panels have confirmed the Complainant’s rights over the term “BOLLORE” (e.g. CAC Case No. 103642, BOLLORE SE v. Kevin H Yu <bollore-usa.com>) and there is no reason to deviate from this decision in the present case.

The disputed domain names are confusingly similar to a trademark in which the Complainant has rights and the Panel comes to the conclusion that the Complainant has satisfied the requirement under paragraph 4(a)(i) of the Policy.

## NO RIGHTS OR LEGITIMATE INTERESTS

The onus to make out a prima facie case that the Respondent lacks rights or legitimate interests is placed on the Complainant. However, once such prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the disputed domain names. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy (see e.g., WIPO case no. D2003-0455, Croatia Airlines d.d. v. Modern Empire Internet Ltd.).

The Respondent is not identified in the Whois database by the word “BOLLORE“, which is contained in the disputed domain names and in the Trademark, domain and company names of the Respondent. Past panels have held that a Respondent was not commonly known by a disputed domain name if the Whois information was not similar to the disputed domain name (Forum Case No. FA 1781783, Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group <bobsfromsketchers.com>).

The Respondent is unknown to the Complainant. The Respondent is not affiliated with nor authorized by the Complainant in any way. The Respondent has no rights or legitimate interests in respect of the disputed domain names. The Complainant does not carry out any activity for, nor has any business with the Respondent.

Neither license nor authorization has been granted to the Respondent to make any use of the Complainant’s trademark “BOLLORE“, or to apply for registration of the disputed domain names.

Furthermore, the disputed domain names resolve to registrar parking pages. The Respondent did not make any use of disputed domain names since registration and there are no indications that use of the disputed domain names is planned. This demonstrates a lack of legitimate interests in respect of the disputed domain names.

Accordingly, the Respondent has no rights or legitimate interests on the disputed domain names.

Therefore, the Panel concludes that the Respondent did not establish any right or legitimate interest in the disputed domain names (within the meaning of paragraph 4(a)(ii) of the Policy). The Complainant has therefore also satisfied the requirement under paragraph 4(a)(ii) of the Policy.

## BAD FAITH

The Panel finds that the Complainant has established that the disputed domain names were registered by the Respondent and

are being used by the Respondent in bad faith. For this purpose, the Complainant has successfully put forward prima facie evidence that the Respondent has not made use, or demonstrable preparations to use, of either the disputed domain names in connection with a bona fide offering of goods or services, or of making a legitimate non-commercial or fair use of the disputed domain names. The Respondent is also in no way commonly known under the disputed domain name. The disputed domain names have also been set up with MX records and MX servers are configured which suggests that the disputed domain names may be actively used for e-mail purposes. In CAC Case No. 102827, JCDECAUX SA v. Handi Hariyono, it was held that “there is no present use of the disputed domain name but there are several active MX records connected to the disputed domain name. It is concluded that it is inconceivable that the Respondent will be able to make any good faith use of the disputed domain name as part of an e-mail address.”

Past panels have confirmed the notoriety of the trademark “BOLLORE” in the following cases:

- CAC Case No. 102015, BOLLORE SA v. mich john: “The Panel takes note, again, of the distinctiveness of the Complainant's brand and the intention that must be presumed to exist in registering a domain name bearing such confusing similarity with well-known brand name.”;

- CAC Case No. 101696, BOLLORE v. Hubert Dadoun: “As the Complainant is also one of the largest 500 companies in the world, the Panel accepts the Complainant's contention that their trademark has a strong reputation and is in fact to be considered well-known.”

This notoriety has not changed and is confirmed by this Panel. In the absence of any response to the complaint and given the reputation of the Complainant and its trademark, company name and domain as supported by the Complainant's evidence, the Panel can only conclude that the Respondent was fully aware of the Complainant's trademarks, domain and company name “BOLLORE” at the time of registering the disputed domain names.

Consequently, the Complainant concludes that the Respondent has registered and is using the disputed domain names in bad faith.

Therefore, the Panel concludes that the Respondent has registered and is using the disputed domain names in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy). The Complainant has therefore also satisfied the requirement under paragraph 4(a)(iii) of the Policy.

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FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BOLLORE-TECHNOLOGIES.COM**: Transferred
2. **BOLLORE-INC.COM**: Transferred

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## PANELLISTS

Name	Udo Pfléggar, B.A.
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DATE OF PANEL DECISION	2022-01-18
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Publish the Decision

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