

Decision for dispute CAC-UDRP-104898

Case number CAC-UDRP-104898

Time of filing 2022-10-07 08:54:36

Domain names uk-bollore.com

Case administrator

Organization Denisa Bilík (CAC) (Case admin)

Complainant

Organization BOLLORE SE

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Name rob cuvert

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 several trademarks. In particular, BOLLORE SE owns the International Registration No. 704697 BOLLORE' registered on December 11, 1998 for classes 16, 17, 34, 35, 36, 38 and 39, duly renewed. The above trademark is protected in numerous countries.

FACTUAL BACKGROUND

BOLLORE SE informs that thanks to a diversification strategy based on innovation and international development, the Complainant holds a strong position 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 and it is listed on the Paris Stock Exchange. The Complainant is the owner of several trademark registrations including the term BOLLORE and also of various domain names including bollore such as <bollore.com>.

The Complainant informs that the disputed domain name <uk-bollore.com> was registered on September 30, 2022 and that it resolves to an inactive page. Furthermore, the Complainant has proved that MX servers are configured on the domain name in dispute.

According to the Complainant the disputed domain name <uk-bollore.com> is confusingly similar to its trademark as it incorporates

the BOLLORE' trademark in its entirety. The Complainant contends that the addition of the generic term UK is not sufficient to escape the finding that the disputed domain name is confusingly similar to the trademark BOLLORE' and that the addition of the gTLD ".com" does not change the overall impression of the designation as being connected to the Complainant's trademark.

In addition, it is the Complainant's view that the Respondent is not known as the disputed domain name but as Rob Cuvert. The Complainant also informs that neither licence nor authorization has been granted to the Respondent to make any use of the Complainant's trademark. Therefore, according to the Complainant, the Respondent has no rights or legitimate interests on the disputed domain name.

Finally, the Complainant notes that, given the distinctiveness and reputation of the Complainant's trademark, it is reasonable to interfere that the Respondent has registered the domain name with full knowledge of the Complainant's trademark. Furthermore, in the Complainant's view, 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 and prejudicial of the Complainant rights. Therefore the Complainant contends that the domain name in dispute was registered and is being used in bad faith.

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).

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

Paragraph 4(a) of the Policy provides that to obtain the transfer of the disputed domain name, the Complainant must prove that each of the following elements is present:

- (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.

1) The Complainant has established that it has rights in the trademark BOLLORE' at least since December 11, 1998. The Complainant's trademark is registered well before with respect to the registration of the disputed domain name (September 30, 2022). The Panel finds that the disputed domain name is confusingly similar to BOLLORE' as the disputed domain name differs from the Complainant's trademark only for (a) the omission of the accent, (b) the addition of the prefix UK preceded by a hyphen and (c) the top-level domain ".COM". Previous panels have held that the omission of the accent is a minor and insignificant change (see, between many others, BOLLORE SE v. Marines Supply INC, CAC Case No. 103527 related to the domain name <bollore.cam>).

Furthermore, the Panel accepts that the prefix UK- does not avoid the confusing similarity between the disputed domain name and the trademark since the above element simply indicates a connection with the United Kingdom. In a previous decision very similar to the case at hand (ARCELORMITTAL S.A. v. Name James, CAC Case No. 102161 related to the domain name <uk-arcelormittal.com>) the panel has held that "the addition of the prefix UK does not add to the distinctiveness of the disputed domain name as it corresponds to the country code and abbreviation of the United Kingdom. The addition of a geographical term does not prevent a finding of confusing similarity". Finally, in accordance with the consensus view of past UDRP panels, the Panel finds that the Top-Level domain (".COM" in this case) is not sufficient to exclude the likelihood of confusion since it is a mere technical requirement included in all domain names. The Complainant therefore succeeds on the first element of the Policy.

2) The Complainant provided prima facie evidence that the Respondent does not have rights or legitimate interests in respect of the disputed domain name as it is not commonly known under the disputed domain name and was never authorized to use it by the Complainant. The Respondent, in the absence of any response, has not shown any fact or element to justify prior rights or legitimate interests in the disputed domain name. The Complainant therefore succeeds also on the second element of the Policy.

3) The disputed domain name is inactive. This circumstance does not prevent a finding of bad faith use. Previous Panels have held that the passive holding of a domain name can be considered as use in bad faith (see, between many others, Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003 and Cleveland Browns Football Company LLC v. Andrea Denise Dinoia, WIPO Case No. D2011-0421). Furthermore it is the Panel's view that the disputed domain name has been registered in bad faith because the Respondent was or must have been perfectly aware of the existence of BOLLORE' trademark, which is highly distinctive and unique for the registered goods and services, when the same Respondent registered the domain name <uk-bollore.com>. When considering this, in conjunction with the fact that the Respondent has been passively holding the disputed domain name and has not submitted any evidence suggesting that the domain name was selected for a legitimate use or purpose, an inference of bad faith registration and use is made by the Panel (see, between many others, Incipio Technologies, inc. v. Starfield Services Ltd, WIPO Case No. D2011-0418). Finally, the Complainant has provided evidence that the Respondent has set up "MX-records" for the disputed domain name. This entails that the Respondent can send e-mails through the e-mail address "@uk-bollore.com". The Respondent can therefore use the disputed domain name to send fraudulent e-mails such as messages containing spam and/or phishing attempts that Internet users could well assume were sent by the Complainant. (See also Confédération Nationale du Crédit Mutuel, Crédit Industriel et Commercial v. Khodor Dimassi, WIPO Case No. D2016-1980; Paris Saint-Germain Football v. MHP Private, WIPO Case No. D2019-0036). Albeit that there are no concrete examples of such use, it seems 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. The Panel finds that the mere conduct of making preparation for sending emails which are very likely to confuse the recipient of such e-mails as to their origin, is without justification and is inconsistent with the Complainant's exclusive rights in the BOLLORE' trademark (see Accenture Global Services Limited v. Registration Private, Domains by Proxy, LLC / Richa Sharma, Name Redacted, WIPO Case No. D2019-2453). In consideration of the above, the Panel deems that the domain name in dispute was registered and used in bad faith and accordingly that the Complainant has satisfied also the third element of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **uk-bollore.com**: Transferred

PANELLISTS

Name	Guido Maffei
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DATE OF PANEL DECISION 2022-11-11

Publish the Decision
