

Decision for dispute CAC-UDRP-104998

Case number	CAC-UDRP-104998
Time of filing	2022-11-21 09:24:26
Domain names	bolloretechnologies-fr.com

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

Organization	smithmoore 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 is the registered owner of international figurative trademark “Bolloré”, reg. no. 704697, registered on 11 December 1998 for goods and services in classes 16, 17, 34, 35, 36, 38 and 39 (“Complainant’s Trademark”).

The disputed domain name <BOLLORETECHNOLOGIES-FR.COM> was registered on 10 November 2022.

FACTUAL BACKGROUND

As the Respondent did not file any response to the complaint, the Panel took into account the following facts asserted by the Complainant (and supported by the documentary evidence submitted by the Complainant) and unchallenged by the Respondent:

- (a) The Bolloré Group (to which the Complainant belongs) was founded in 1822, and provides services to its customers consisting in particular in transportation and logistics, communication and media, electricity storage and solutions. It is one of the 500 largest companies in the world and listed on the Paris Stock Exchange;
- (b) the Complainant is the owner of the Complainant’s Trademark;
- (c) the Complainant owns various domain names including the same distinctive wording “Bollore”, of which the domain name

<bollore.com> has been registered since 25 July 1997;

(d) the disputed domain name was registered on 10 November 2022; and

(e) under the disputed domain name there is no active website.

PARTIES CONTENTIONS

The Parties' contentions are the following:

THE COMPLAINANT:

In addition to the above factual assertions, the Complainant also contends the following:

(i) the disputed domain name is confusingly similar to Complainant's Trademark as it contains the denomination „Bollore“ and the addition of non-distinctive elements “technologies” and “fr” is not sufficient to avoid confusing similarity. The top-level suffix in the disputed domain name (i.e. the “.com”) must be disregarded under the identity / confusing similarity test as it is a necessary technical requirement of registration.

(ii) The Respondent is not known by or affiliated with the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent. Neither license nor authorization has been granted by the Complainant to the Respondent to use the Complainant's Trademark or apply for registration of the disputed domain name. The disputed domain name is inactive. As a result, the Respondent has no rights or legitimate interest in the disputed domain name.

(iii) The disputed domain name is confusingly similar to the Complainant's well-known and distinctive trademark BOLLORE®. Past panels have confirmed the notoriety of the trademarks BOLLORE® for example in cases CAC Case No. 102015, BOLLORE SA v. mich john or CAC Case No. 101696, BOLLORE v. Hubert Dadoun. Given the distinctiveness of the Complainant's Trademark and reputation, it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's Trademark. Thus, Respondent has registered the disputed domain name and is using it in bad faith.

THE RESPONDENT:

The Respondent did not provide any response to the complaint.

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 Uniform Domain Name Dispute Resolution Policy ("Policy").

For details, please see "Principal Reasons for the Decision".

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).

For details, please see "Principal Reasons for the Decision".

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).

For details, please see "Principal Reasons for the Decision".

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under the Policy 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 requires that the Complainant proves each of the following three elements to obtain an order that the Disputed domain name should be transferred or cancelled:

- (i) the disputed domain name is 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 name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Panel will now analyze whether the three elements of paragraph 4(a) of the Policy are satisfied in these proceedings.

IDENTITY / CONFUSING SIMILARITY

The disputed domain name is confusingly similar to Complainant's Trademark as it contains the element "Bollere" which is identical to Complainant's Trademark and the addition of non-distinctive elements "technologies" and "fr" is not sufficient to distinguish the disputed domain name from Complainant's Trademark.

In line with the long-established UDRP practice the Panel also concludes that the top-level suffix in the domain name (i.e. the ".com") must be disregarded under the identity / confusing similarity test as it is a necessary technical requirement of registration.

Therefore, the Panel concludes that the Complainant satisfied the requirement under paragraph 4(a)(i) of the Policy.

NO RIGHTS OR LEGITIMATE INTERESTS

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

As asserted by the Complainant (and unchallenged by the Respondent), the Respondent is not commonly known by the disputed domain name. Neither is the Respondent in any way related to the Complainant. No website is operated under the disputed domain name. The Respondent failed to provide any information and evidence that it has relevant rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a) (ii) of the Policy).

Therefore, the Panel concludes that the Respondent did not establish any right or legitimate interest in the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Panel noted that the Complainant is a well-known global company and the Complainant's Trademark is registered and enjoys good reputation in many countries worldwide. The denomination "Bollere" has no common meaning, it clearly points to the Complainant and its group (and not much else) when entered into the internet search engines. Hence the Panel is convinced that such denomination is clearly distinctive to the Complainant. Distinctiveness and reputation of Complainant's Trademark has already been established by the Panels in number of previous cases where Complainant has been subjected to cybersquatting (please see examples above). In this respect, the Panel also deems appropriate to refer to paragraph 2 of the Policy under which it is the responsibility of the Respondent as the registrant of disputed domain name to determine whether its registration infringes or violates someone else's rights.

In the light of the above circumstances the Panel failed to find any plausible good faith reasons for registration and use of the disputed domain name by the Respondent. The Respondent has not submitted any response to the Complaint and therefore has not presented any facts or arguments that could counter the above conclusions of the Panel. As a result, the Panel holds that the disputed domain name has been registered and used by the Respondent in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **bolloretechnologies-fr.com**: Transferred

PANELLISTS

Name	Michal Matějka
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DATE OF PANEL DECISION 2022-12-17

Publish the Decision
