

Decision for dispute CAC-UDRP-104782

Case number CAC-UDRP-104782

Time of filing 2022-08-09 09:29:12

Domain names bollore-logic.com

Case administrator

Organization Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization BOLLORE SE

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Name Nyenty Andrea

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

Complainant is the owner of the international trademark registrations

- No. 1025892 "Bolloré LOGISTICS" (with design), registered since 31 July 2009, which is protected in numerous countries and covers various services in international classes 35, 36, and 39; and
- No. 1302823 "BOLLORÉ LOGISTICS" (with design), registered since 27 January 2016, which is also protected in numerous countries and covers various goods and services in international classes 04, 09, 35, 36, 39, 40, and 42.

The disputed domain name was registered on 3 August 2022, i.e. the Complainant's international trademark registrations predate the registration of the disputed domain name.

FACTUAL BACKGROUND

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

Complainant's Bolloré Group of companies was founded in 1822. Based on a diversification strategy it now holds strong positions around three business lines, namely (i) Transportation and Logistics, (ii) Communication and Media, and (iii) Electricity Storage and Solutions. It is one of the 500 largest companies in the world. While listed on the Paris Stock Exchange, the majority interest of the Group's stock is still controlled by the Bolloré family. The Group has 73,000 employees world-wide with annual revenues of 19,771 million Euro and an operating income of 1,339 million Euro (based on the results of 2021).

Complainant's subsidiary BOLLORE LOGISTICS is one of the 10 leading worldwide transport and logistics companies with 603 offices in 111 countries on the five continents and more than 20,682 employees. BOLLORE LOGISTICS uses the domain name <bollore-logistics.com>, which was registered on 20 January 2009, for its official website at <https://www.bollore-logistics.com/>.

Complainant contends that Respondent is not affiliated with Complainant nor authorized by Complainant in any way to use the trademark "BOLLORÉ LOGISTICS". Complainant does not carry out any activity for, nor has any business with the Respondent.

Complainant asserts that Respondent has no rights or legitimate interests in respect of the domain name <bollore-logistic.com> and that Respondent is not related in any way to the Complainant's business.

The disputed domain name redirects to BOLLORE LOGISTICS' (i.e., the Complainant's subsidiary's) official website at <https://www.bollore-logistics.com/> using a "HTTP 302 redirect", thereby indicating that the website's "normal" content has been moved temporarily to the new address.

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

The Panel finds that the disputed domain name is confusingly similar to Complainant's (device) trademarks cited above. The only differences between the disputed domain name and these trademark's word element "Bolloré LOGISTICS" are:

- the accent on the letter "e" in "Bolloré", which cannot be represented in standard (i.e., non-IDN) domain names;
- the letter "g" in "logistics" being replaced with the visually similar letter "q"; and

- the use of the singular form "logistic" instead of the plural form "logistics".

Given these minute differences, the Panel regards the disputed domain name as a form of "typosquatting", i.e. the disputed domain name contains an obvious misspelling of the Complainant's trademark.

The Panel finds that Complainant successfully submitted prima facie evidence that Respondent has made no use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services, nor is Respondent making a legitimate non-commercial or fair use of the disputed domain name, nor is Respondent commonly known under the disputed domain name. This prima facie evidence was not challenged by Respondent.

Finally, the disputed domain name redirects to Complainant's subsidiary's official website. This is a clear indication that Respondent has knowledge of Complainant's subsidiary and of Complainant's corresponding rights prior to the registration of the disputed domain name, which is a hallmark of bad faith. The Panel agrees with earlier UDRP decisions which have held that "Respondent's registration and use of the confusingly similar disputed domain name, even where it resolves to Complainant's own site, is still registration and use in bad faith pursuant to Policy 4(a)(iii)" (cf. Forum Case No. FA 1382148, Verizon Trademark Servs. LLC v. Boyiko; Forum Case No. FA 1330650, McKinsey Holdings, Inc. v. Mgr. Jakub Bystron; WIPO Case No. D2007-1231, MySpace, Inc. v. Mari Gomez). Inherent in that conduct, particularly in case of merely a temporary "HTTP 302 redirect", is the risk that Respondent may at any time cause the internet traffic to re-direct to a different website that is not that of, or associated with, Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BOLLORE-LOQISTIC.COM**: Transferred

PANELLISTS

Name	Dr. Thomas Schafft
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DATE OF PANEL DECISION 2022-09-14

Publish the Decision
