

Decision for dispute CAC-UDRP-105076

Case number CAC-UDRP-105076

Time of filing 2022-12-23 11:22:26

Domain names bolloreportfreights.com

Case administrator

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

Complainant

Organization BOLLORE SE

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Name Zick Brown

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, inter alia, International Trademarks BOLLORE (device) with registration nr 704697 since 1998 and BOLLORE PORTS (device) with registration no. 1317792 since 2016. The Complainant also owns and operates several domain names including the domain name <bollore-ports.com>, registered since September 30, 2015.

The disputed domain name <bolloreportfreight.com> was registered on December 15, 2022 and redirected Internet users to an active website concerning transport and logistics, which, inter alia, displays the BOLLORE device mark.

FACTUAL BACKGROUND

Facts asserted by the Complainant and not contested by the Respondent:

The Complainant contends that the Bolloré group was founded in 1822 and now holds strong positions in all its activities around three business lines, such as transportation and logistics, communication and media, electricity storage and solutions. It is one of the 500 largest companies in the world. Listed on the Paris Stock Exchange, the majority interest of the Group's stock has always been controlled by the Bolloré family. The Complainant's subsidiary Bolloré Ports is a global port operator with 21 port concessions worldwide, including 17 on the African continent. As the leading port infrastructure operator in Africa, Bolloré Ports has three major areas of expertise: port concessions, traditional cargo handling, and shipping agency services.

The Complainant asserts that the disputed domain name is confusingly similar to the BOLLORE trademark as the addition of “ports” and “freight” does not change the overall impression of the designation as being connected to the Complainant’s BOLLORE trademark. According to the Complainant the added terms worsen the likelihood of confusion, as it directly refers to the Complainant’s subsidiary Bolloré Ports and its trademark BOLLORE PORTS.

Further, according to the Complainant the Respondent does not have any rights or legitimate interest in the disputed domain name because the Whois information is not similar to the disputed domain name. The Complainant also contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name and he is not related in any way with the Complainant, and the Complainant does not carry out any activity for, nor has any business with the Respondent. Further, the Complainant alleges that it granted the Respondent neither a licence nor authorization to make any use of the BOLLORE trademark, or apply for registration of the disputed domain name. Moreover the disputed domain name resolves to a website displaying pictures and information related to the Complainant’s logistics and transport activities, and displays the BOLLORE device mark. which the Complainant alleges to be the Respondent’s attempt to pass off as one of the Complainant’s affiliates. The Complainant therefore claims that the disputed domain name is not used in connection with a bona fide offering of goods or services or a legitimate noncommercial or fair use.

The Complainant further claims that the Respondent has registered and is using the disputed domain name in bad faith because the BOLLORE trademark is distinctive and well-known and the Complainant considers it is inconceivable that the Respondent could have registered the disputed domain name without actual knowledge of the Complainant’s rights in the BOLLORE trademark, while the addition of the terms “port” and “freights” cannot be coincidental as those terms directly refer to Bolloré Port’s activities and the Complainant’s trademark BOLLORE PORTS. The Complainant also contends that the disputed domain name resolves to a website displaying pictures and information related to the Complainant’s activities and its trademark BOLLORE PORTS, for which reason the Complainant contends that by using the disputed domain name the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant’s trademarks as to the source, sponsorship, affiliation, or endorsement of the website, which is an evidence of 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

1. The Panel finds that the disputed domain name is confusingly similar to the Complainant’s trademarks BOLLORE and BOLLORE PORTS which were registered prior to the registration of the disputed domain name. The disputed domain name wholly incorporates the Complainant’s trademark BOLLORE and the singular form of the Complainant’s trademark

BOLLORE PORTS. The fact that the terms “port” and “freight” are added do not eliminate the similarity between Complainant's trademarks and the disputed domain name, and in fact may even enhance the similarity between the Complainant's trademarks and the disputed domain name in view of the Complainant's subsidiary Bolloré Ports' activities in the field of freights through ports.

2. The Panel finds that the Complainant successfully submitted evidence that the Respondent is not commonly known under the disputed domain name, and was not licensed or authorized by the Complainant to register or use the disputed domain name. The Complainant's allegations were not challenged by the Respondent.
3. In the absence of a Response, observing that several panels have found that the BOLLORE trademark is well-known (e.g., CAC Case No. 102015, BOLLORE SA v. mich john; CAC Case No. 101696, BOLLORE v. Hubert Dadoun; and BOLLORE SE v. Ruth Hermine, WIPO Case No. D2020-2699), and the activities of the Complainant's subsidiary Bolloré Ports and its use of the BOLLORE PORTS trademark on the African continent, where the Respondent is living according to the disputed domain name registrar's information, the Panel infers that the Respondent must have had the Complainant's trademarks in mind when registering the disputed domain name, which was therefore registered in bad faith. Further, the Panel is satisfied that the Respondent's use of the disputed domain name is in bad faith as the disputed domain name resolves to a website which prominently displays the Complainant's BOLLORE device mark on the home page which offers freight related services, which constitutes an intentional attempt to attract, for commercial gain, Internet users to the Respondent's website, by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of this website.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **bolloreportfreights.com**: Transferred

PANELLISTS

Name	Alfred Meijboom
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DATE OF PANEL DECISION 2023-01-24

Publish the Decision
