Decision for dispute CAC-UDRP-101693

Case number	CAC-UDRP-101693
Time of filing	2017-09-26 09:44:53
Domain names	bollore-groupefinance.com

Case administrator

Name	Aneta Jelenová (Case admin)

Complainant

Organization	BOLLORE

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Organization	Domain Privacy ApS

OTHER LEGAL PROCEEDINGS

The Panel is unaware of other legal proceedings, pending or otherwise, which relate to the Disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the holder of International Registration No. 704697 Bolloré (stylised word), registered in classes 16, 17, 34, 35, 36, 38 and 39 since 11. December 1998. It is protected in numerous countries. It is also the owner of the domain name BOLLORE.COM, registered since 25 July 1997. The further International Registration No. 595172 BOLLORE is registered in the name of the company BOLLORE PROTECTION, with no indication given of the legal connection between the Complainant and the proprietor of the mark. Therefore, this earlier right cannot be taken into consideration.

FACTUAL BACKGROUND

Factual Grounds

According to the Complainant, the Bolloré Group was founded in 1822. It claims to hold strong positions in all its activities around three business lines, transportation and logistics, communication and media, electricity storage and solutions.

The Complainant contends that 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 is said to be always controlled by the Bolloré family. In addition to its activities, the Group claims to manage a number of financial assets including plantations and financial investments.

The Complainant claims to be the owner of several international trademark registrations BOLLORE®.

The Complainant also claims to own and communicate on the internet through various domain names, the main one being <bollore.com>, registered on July 25th of 1997.

The disputed domain name was registered on August 7th of 2017 by the Respondent.

Legal Grounds

I. Domain name is confusingly similar to the protected mark

The Disputed domain name <bollore-groupefinance.com> is claimed to be confusingly similar to the Complainant's trademarks BOLLORE® because the trademark BOLLORE® is included in its entirety.

The Complainant contends that the addition of words "Groupe Finance" and the generic Top-Level Domain ("gTLD") suffix ".COM" does not change the overall impression of the designation as being connected to the trademark BOLLORE® of the Complainant.

It is argued that this does not prevent the existence of a likelihood of confusion between the Disputed domain names and the Complainant, its trademark and its associated domain names.

Thus, the domain name <bollore-groupefinance.com> is argued to be confusingly similar to a trademark in which the Complainant has rights.

II. The Respondent does not have any rights or legitimate interest in the domain name(s)

According to the decision in Croatia Airlines d. d. v. Modern Empire Internet Ltd., (WIPO Case No. D2003-0455), the Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such a prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a) (ii) of the UDRP.

The Complainant contends that the Respondent is not affiliated with him nor authorized by him in any way to use the trademark BOLLORE®. The Complainant does not carry out any activity for, nor has any business with the Respondent.

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

The Disputed domain name redirects to a website in French that refers to proposals for bank loans. There is no information about the company "Bollore Groupe Finance" on the website (no company registration number, no mailing address).

On these facts, the Complainant contends that Respondent registered the Disputed domain name in order to create a likelihood of confusion. It is argued that the Respondent attempted to attract consumers by taking advantage of Complainant's notoriety (registration of the "Bollore" trademark in domain name) and the use of the French language on the site.

According to the Complainant, the Respondent has no rights or legitimate interests to the disputed domain name <bollore-groupefinance.com>.

III. The domain name has been registered and is being used in bad faith

The Complainant states that the Disputed domain name <bollore-groupefinance.com> is confusingly similar to its trademarks BOLLORE® and domain names associated.

Given that the trademark “Bollore” is included in the domain name and the content of the website is in French, the Complainant contends that Respondent was aware of Complainant at the time of the domain name registration.

Further, the content of the website makes reference to the company “Bollore Groupe Finance” but there is [no] information regarding its history, its address, its company registration number. The Complainant contends this company does not exist: The Chief Executive Officer in the picture is not “Desmond Purpleson” but Marion Guillou, Chief Executive Officer of INRA and Polytechnique School.

On these bases, the Complainant concludes that the Respondent has registered and is using the Disputed domain name <bollore-groupefinance.com> in bad faith.

IV. Legal basis

Again the Complainant cites the decision in Croatia Airlines d. d. v. Modern Empire Internet Ltd., (WIPO Case No. D2003-0455), according to which the Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such a prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a) (ii) of the UDRP.

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

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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 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 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:

RIGHTS

The Disputed domain name is 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 name (i.e. ".com"), and

b) not finding that the addition of a generic words (such as "groupe" and "finance") would be sufficient to distinguish a domain name from a trademark.

Therefore, the Panel comes to the conclusion that the Complainant has satisfied the requirement under paragraph 4(a)(i) of the UDRP.

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 name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the UDRP (see e.g. WIPO case no. D2003-0455, Croatia Airlines d.d. v. Modern Empire Internet Ltd.).

The Complainant has put forward that the Respondent is not commonly known by the Disputed domain name. Neither is the Respondent in any way related to the Complainant. Nor has the Respondent been granted an authorization or license to use the Disputed domain name by the Complainant. This has not been contested by the Respondent. Instead, the Respondent failed to provide any information and evidence whatsoever that could have shown 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 to the Disputed domain name (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 name was registered by the Respondent and is 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 name 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 name. Instead, the Respondent operates a French language website under the Disputed domain name, featuring an apparently nonexistent company "Bollore Groupe Finance" with a fake CEO. The Respondent is also in no way

commonly known under the Disputed domain name. This prima facie evidence was not challenged by the Respondent.

In the absence of a Response and given the reputation of the Complainant and its trademarks, company name and domain as supported by the Complainant's evidence, the Panel must conclude that the Respondent was fully aware of the Complainant's trademark, domain and company name "BOLLORE" at the time of registering the Disputed domain name <BOLLORE-GROUPEFINANCE.COM>. Therefore, it has been established to the satisfaction of the Panel that the Disputed domain name was registered and is being used in bad faith, in order to prevent the Complainant from making proper use of the mark in the Disputed domain name.

Therefore, the Panel concludes that the Respondent has registered and is using the Disputed domain name 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.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

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

PANELLISTS

Name	**Udo Pfleghar**

DATE OF PANEL DECISION 2017-11-08

Publish the Decision