

Decision for dispute CAC-UDRP-105263

Case number CAC-UDRP-105263

Time of filing 2023-03-07 06:10:32

Domain names bollore-logistics.org

Case administrator

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

Complainant

Organization BOLLORE SE

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Name Ahabwe Ahabwe

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 a registered owner of the following trademarks consisting of the word element "BOLLORE LOGISTOCS":

- international trademark BOLLORE LOGISTICS® n°1025892 registered since July 31, 2009; and
- international trademark BOLLORE LOGISTICS® n°1302823 registered since January 27, 2016.

Moreover, the Complainant owns a domain name containing the wording BOLLORE LOGISTICS:

- <bollore-logistics.com> registered since January 20, 2009.

FACTUAL BACKGROUND

BOLLORE SE (the "Complainant") was founded in 1822. It states that the founder and his successors commenced a diversification strategy based on innovation and international development. It now holds strong positions in all its activities around three business lines, Transportation and Logistics, Communication and Media, Electricity Storage and solutions (please see their website at: www.bollore.com).

The Complainant states further 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 always controlled by the Bolloré family. The BOLLORE Group has 73,000 employees worldwide with the revenue that equals to 19,771 million euros, operating income in the amount of 1,339 million euros and the shareholders' equity in the amount of 34,418 million euros based on the results in 2021.

The Complainant's subsidiary BOLLORE LOGISTICS is one of the 10 leading worldwide transport and logistics companies. With a presence on the five continents (603 offices in 111 countries and more than 20,682 employees), BOLLORE LOGISTICS aims to consolidate the strength and reach of its international network through organic growth and targeted acquisitions.

PARTIES CONTENTIONS

COMPLAINANT:

Identical or confusingly similar

The Complainant argues that the disputed domain name <bollore-logistics.org> and the Complainant's registered trademarks BOLLORE LOGISTICS are confusingly similar.

The Complainant argues that its trademark is fully contained within the disputed domain name and points out that the elements in which the signs vary do not alter the overall confusion between the signs.

No rights or legitimate interests

The Complainant argues that there is no evidence at all that the Respondent is commonly known by the disputed domain name or a name corresponding to the disputed domain name, nor that the Respondent is making any bona fide offering of goods or services. Moreover, the Complainant states that the Respondent has not been licensed or otherwise authorized to use any of the Complainant's trademarks nor to apply for or use any domain name incorporating such trademarks.

Registered and used in bad faith

As far as bad faith registration is concerned, the Complainant point out that given the distinctiveness of the Complainant's international trademark which has been declared a well-known trademark (CAC Case No. 102031, BOLLORE v. Donald Shillam, and CAC Case No. 101500, BOLLORE SA v. JESSICA SAXTON), the Respondent has registered the domain name in knowledge of the Complainant, which evidences bad faith.

The Complainant underlines that the Respondent has not demonstrated any activity in respect of the disputed domain name, so that according to the Complainant 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, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant's rights under trademark law

RESPONDENT:

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 15 of the Rules states that the Panel shall decide a Complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law deemed applicable.

In the case of default by a Party, Rule 14 states that if a Party, in the absence of exceptional circumstances, does not comply with a provision of, or requirement under the Rules, the Panel shall draw such inferences therefrom as appropriate.

In the present case, the Respondent has not submitted any Response and consequently has not contested any of the contentions made by the Complainant.

The Panel proceeds therefore to decide only on the basis of the Complainant's factual statements and the documentary evidence provided in support of them.

1. The Complainant has established that it has an earlier right in the word mark BOLLORE LOGISTICS by providing the Panel with the evidence that it has an international registration for its trademarks BOLLORE LOGISTICS with priority dates since 2009 and 2016.

The disputed domain name <bollore-logistics.org> which was registered 28 February 2023 fully comprises the Complainant's trademarks "BOLLORE LOGISTICS" followed by the Top-Level domain ".org".

Since the Complainant's trademark is fully comprised within the disputed domain name and the additional elements have lower degree of distinctiveness, the Panel considers that the disputed domain name is confusingly similar to Complainant's previously registered trademarks.

The Panel accordingly concludes that paragraph 4(a)(i) of the Policy is satisfied.

2. The Respondent appears not to be in any way related to the Complainant's business and is not the agent of the Complainant.

The Complainant has established that the Respondent is not currently known and has never been known as "BOLLORE LOGISTICS", or any combination of this trademark.

Furthermore, as it follows from the Complaint, the disputed domain name <bollore-logistics.org> does not resolve to any web site with an active content stored on it, nor appears to have been actively used so far.

Therefore, the Respondent does not appear to have a legitimate interest in the disputed domain name.

Consequently, and in the absence of a Response, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, so that the requirements of paragraph 4(a)(ii) of the Policy are met.

3. As to the bad faith at the time of the registration, the Panel finds that, in light of the distinctiveness of the Complainant's trademark BOLLORE LOGISTICS (previously declared as well-known), the high degree of similarity with the disputed domain name, and the worldwide presence of the Complainant's business known under the name "BOLLORE", the Respondent was more likely to be aware of the Complainant's trademark at the time of the registration of the disputed domain name.

Bearing in mind these circumstances and the fact that the disputed domain name resolves to a parking page, i.e. has been used without being associated with any goods or services the Respondent can be deemed to have registered the domain name with the aim to create an association, and a subsequent likelihood of confusion, with the Complainant's trademark in Internet users' mind for whatsoever unfair purpose.

Under such circumstances, the Panel finds that the disputed domain name was registered and is being used in bad faith.

Accordingly, the Panel finds that the Complainant has satisfied 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-logistics.org**: Transferred

PANELLISTS

Name	Hana Císlerová
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DATE OF PANEL DECISION 2023-04-03

Publish the Decision
