

Decision for dispute CAC-UDRP-105274

Case number	CAC-UDRP-105274
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Time of filing	2023-03-09 09:59:57
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Domain names	bolllorre.com
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Case administrator

Name	Olga Dvořáková (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	united states hispanic chamber of commerce
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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 owner of the international trademark BOLLORE (Reg. No. 704697), registered on December 11, 1998.

FACTUAL BACKGROUND

The BOLLORE group (including Bollore SE, the Complainant) was founded in 1822. Thanks to a diversification strategy based on innovation and international development, it is now well known in three business sectors: transportation and logistics, communications, electricity storage and systems. Currently the Complainant is one of the 500 largest companies in the world: it has 73,000 employees world-wide 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 also owns and communicates on the Internet through various domain names, the main one being <bollore.com>, registered on July 25, 1997.

The disputed domain name <bolllorre.com> was registered on February 28, 2023.

The disputed domain name resolves to an error page. MX servers are configured for the disputed domain name.

PARTIES CONTENTIONS

The Complainant submits that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.

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 agrees with the Complainant that the disputed domain name <bolllorre.com> is confusingly similar to the Complainant's trademark BOLLORE. The evidence adduced by the Complainant shows the extensive use of its trademark BOLLORE worldwide and it is, therefore, regarded as the well known trademark. The Panel agrees with the Complainant that the addition of letter "L" and letter "R" (i.e. doubling these letters) in the trademark BOLLORE does not set aside the confusing similarity between the disputed domain name and the Complainant's trademark (section 1.9 of WIPO Overview 3.0 states: "A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element.").

The Panel acknowledges that the Complainant presented prima facie evidence that the Respondent is not sponsored by or affiliated with Complainant in any way. Furthermore, Complainant has not licensed, authorized, or permitted Respondent to use Complainant's trademark in any manner, including in domain names. The Respondent's name "united states hispanic chamber of commerce (felipe ugalde)" does not resemble the disputed domain name in any manner. The disputed domain name is not used for the website purposes, however, it has been set up with MX records which suggests that it may be actively used for email purposes. The panels in previous CAC UDRP cases underlined that such activity would be far from any good faith use (see the decision of CAC Case No. 102827, JCDECAUX SA v. Handi Hariyono: "There is no present use of the disputed domain name but there are several active MX records connected to the disputed domain name. It is concluded that it is inconceivable that the Respondent will be able to make any good faith use of the disputed domain name as part of an e-mail address."). In conclusion, Respondent's use of the disputed domain name does not constitute a bona fide offering of goods or services or a legitimate non-commercial or fair use (Policy Para. 4(a)(ii).

As no administratively compliant response has been provided to the Panel and the prima facie evidence was not challenged by the Respondent, the Panel concludes that the Respondent, when it registered the disputed domain name, meant nothing else except the Complainant's trademark BOLLORE (see WIPO Overview 3.0, para. 3.1.1). Previous UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. Accordingly, the Panel finds that the disputed domain name was registered in bad faith. Moreover, previous panels have also held that the use of a domain name for purposes other than to host a website may constitute bad faith, namely, sending email, phishing, identity theft, or malware distribution (see WIPO Overview 3.0, para. 3.4). As the disputed domain name has been set up with MX

records (which means that it may be actively used for email purposes), the Panel is, therefore, convinced that the disputed domain name was also used bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **bolllorre.com**: Transferred

PANELLISTS

Name	Darius Sauliūnas
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DATE OF PANEL DECISION 2023-04-07

Publish the Decision