

Decision for dispute CAC-UDRP-105303

Case number	CAC-UDRP-105303
Time of filing	2023-03-27 09:55:17
Domain names	bolloreenergyreims.com

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (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	Bollore Energy Reims
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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 owns figurative international trademark No. 704697 "Bolloré" duly registered in multiple countries with priority from July 1, 1998 and figurative international trademark No. 1303490 "BOLLORE ENERGY" duly registered in the EU and Switzerland with priority from November 17, 2015.

FACTUAL BACKGROUND

The Complainant publicly traded company and still majority controlled by the Bolloré family was founded in 1822 and it is one of the 500 largest companies in the world.

The Complainant's subsidiary BOLLORE ENERGY is active in oil distribution and oil logistics in France, Switzerland and Germany.

The Complainant owns the domain name <bollore-energy.com>, registered on September 30, 2015.

The disputed domain name was registered by the Respondent on March 16, 2023.

PARTIES' CONTENTIONS

1. Complainant

The Complainant argues that the disputed domain name <bolloreenergyreims.com> is confusingly similar to the Complainant's trademark BOLLORE ENERGY which it incorporates in its entirety. The Complainant asserts that the addition of the geographic name "REIMS" is insufficient to escape the finding that the domain name is confusingly similar to the trademark BOLLORE ENERGY.

Furthermore, the Complainant contends that the Respondent lacks any rights or legitimate interests in the disputed domain name.

Specifically, the Complainant notes the Respondent is identified in the Whois database as "Bollore Energy Reims", which refers to the Complainant's subsidiary BOLLORE ENERGY REIMS. However, the email address is not controlled by the Complainant or its entity in any way. Moreover, no establishment related to the Complainant is located at the address of the Respondent available in the Whois database.

The Complainant asserts that the Respondent choose to register the disputed domain name to worsen the likelihood of confusion with the Complainant.

The Complainant contends that the Respondent is not affiliated with nor authorized by the Complainant in any way and that the Complainant does not carry out any activity for, nor has any business with the Respondent and that neither licence nor authorization has been granted to the Respondent to make any use of the Complainant's trademark BOLLORE ENERGY or apply for registration of the disputed domain name.

The Complainant argues that the Respondent has registered and is using the disputed domain name in bad faith. Firstly, given the distinctiveness and reputation of the Complainant's trademarks which has been confirmed by the previous CAC decisions (Case No. 102015, BOLLORE SA v. mich john and Case No. 101696, BOLLORE v. Hubert Dadoun) it is reasonable to conclude that the Respondent registered and used the domain name with full knowledge of the Complainant's trademarks. Secondly, the term "BOLLORE ENERGY REIMS" refers to the Complainant specifically to Complainant's establishment based in Reims, France. Thirdly, the disputed domain name resolves to a parking page with commercial links and the Complainant contends the Respondent has attempted to attract Internet users for commercial gain to his own website using the Complainant's trademarks. These actions are evidence of bad faith.

2. Respondent

No administratively compliant response has been submitted by the Respondent.

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).

The Complainant has successfully demonstrated that it is the rightful owner of the "Bolloré" and "BOLLORE ENERGY" trademarks. The Complainant's trademarks "BOLLORE ENERGY" as well as "Bolloré" are clearly recognizable within the disputed domain name. The addition of descriptive ("energy") and/or geographic term Reims, which is a city in France, is insufficient to prevent Internet user confusion. The confusing similarity is also not prevented by the graphic presentation of the Complainant's trademarks considering that figurative, stylized or design elements in a trademark are generally incapable of representation in a domain name (See "Article 1.10 of WIPO Jurisprudential Overview 3.0").

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).

A complainant is required to establish a prima facie case that the respondent lacks rights or legitimate interests. Once such a case is made, the burden of proof shifts to the respondent to demonstrate their rights or legitimate interests in the disputed domain name. Failure to do so results in the complainant satisfying paragraph 4(a)(ii) of the Policy (as per Article 2.1 of WIPO Jurisprudential Overview 3.0).

Based on the contentions of the Complainant, the Panel finds that the Complaint has successfully established a prima facie case that the Respondent lacks rights or legitimate interests. As the Respondent has failed to provide relevant evidence demonstrating any such rights or legitimate interests, the Complainant is deemed to have satisfied the second element.

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).

Bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark (see Article 3.1. of WIPO Jurisprudential Overview 3.0).

Registration in bad faith

The Panel considers the following factors in determining bad faith registration of the disputed domain name:

(a) The Complainant's long-standing history and reputation, along with its registered trademarks.

(b) The inherent distinctiveness of the Complainant's trademarks, which combine the Complainant's founder's family name (Bolloré) and Complainant's subsidiary name and trademark ("BOLLORÉ ENERGY") with the location of the Complainant's establishment in the city of Reims in France.

Based on the above, the Panel concludes that the Respondent must have been aware of the Complainant and its trademarks when registering the disputed domain name.

The Panel concludes that already the mere registration of a domain name that fully incorporates the Complainant's trademark "BOLLORÉ ENERGY" and includes the name of the city in France where the Complainant's establishment is located, is in this case in itself evidence of bad faith registration.

Taking into account the above-mentioned, the Panel finds that Respondent has registered the disputed domain name in bad faith.

Use in bad faith

The disputed domain name incorporates almost all of the Complainant's distinctive trademarks and the name of the French city in which one of the Complainant's establishments is located, giving the impression of a connection to the goods/services marketed by the Complainant and creating a likelihood of confusion with its trademarks.

The evidence submitted by the Complainant further shows that the Respondent is using the disputed domain name to host a website containing commercial links. The Panel finds that such use is not for any bona fide offerings, but rather an attempt to attract internet users to the website for commercial gain by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement.

Therefore, the Panel finds that the disputed domain name is being used in bad faith.

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 has determined that the disputed domain name is confusingly similar to the Complainant's trademarks.

Based on the contentions presented by the Complainant, the Panel has found that the Complainant has satisfactorily made a prima facie case that the Respondent lacks rights or legitimate interests. As the Respondent has failed to provide relevant evidence demonstrating any such rights or legitimate interests, the Complainant is deemed to have satisfied the second element.

The Panel finds that, based on the Complainant's contentions and evidence, it can be concluded that the Respondent must have been aware of the Complainant's trademarks when it registered the disputed domain name, and as such, the Respondent has registered the disputed domain name in bad faith.

Lastly, the Panel has concluded that the Complainant has successfully proven that the disputed domain name is being used in bad faith.

Therefore, for the aforementioned reasons, the Panel orders that the disputed domain name <bolloreenergyreims.com> be transferred to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **bolloreenergyreims.com**: Transferred

PANELLISTS

Name	Karel Šindelka
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DATE OF PANEL DECISION	2023-05-01
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Publish the Decision	
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