

Decision for dispute CAC-UDRP-105335

Case number	CAC-UDRP-105335
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Time of filing	2023-04-06 09:56:08
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Domain names	bollore-agency.com
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Case administrator

Name	Olga Dvořáková (Case admin)
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Complainant

Organization	BOLLORE
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Complainant representative

Organization	NAMESHIELD S.A.S.
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Respondent

Name	Elie Kassis
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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 has adduced evidence that it owns the international trademark No. 704697 for “BOLLORÉ” as a word mark with figurative elements. This trademark was registered on 11 December 1998 on the basis of a French basic registration and remains valid. The registration extends to Nice Classification List Classes 16, 17, 34, 35, 36, 38 and 39.

The Complainant has further adduced evidence that it is the registrant of the domain name <bollore.com>, registered on 25 July 1997.

This proceeding's Registrar Verification data confirm that the Respondent registered the disputed domain name <bollore-agency.com> on 29 March 2023.

FACTUAL BACKGROUND

The Complainant is a well-known, publicly traded French company with global presence that was founded in 1822 and which has its headquarters near Paris. It is among the five hundred largest companies in the world, with a turnover in 2021 approaching € 20 billion. The Bolloré group is diversified across different economic sectors, from transport and logistics services, to energy, to communication and media, along with its traditional paper manufacturing business. In addition to its trading activities, the family-owned group operates an investment policy under which it manages a range of financial assets and holdings.

The Complainant has adduced evidence to show that the disputed domain name is currently offered for sale on a parking page hosted by the same entity as internet service provider as that which acted as registrar for the disputed domain name.

PARTIES CONTENTIONS

COMPLAINANT:

1. The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights

The disputed domain name includes the trademark BOLLORE in its entirety, while addition of the term “agency” is not sufficient to escape a finding that the disputed domain name is confusingly similar to the trademark and goods branded with it since this addition does not change the overall impression of the disputed domain name's designation being connected to the Complainant's trademark. It therefore does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and the domain name associated with it. Nor does the Top-Level Domain suffix <.com> alter the confusing overall impression just described. UDRP Panels have, moreover, upheld this reasoning in previous proceedings related to the BOLLORE trademark being used in other disputed domain names.

2. The Respondent has no rights or legitimate interests in respect of the disputed domain name

The Complainant contends that the Respondent has no right or legitimate interest in respect of the disputed domain name. The Whois database entry for it shows that the Respondent is not identified by the disputed domain name. Nor is the Respondent associated in any way with the Complainant. No licence or authorization has been granted to the Respondent to make any use of the Complainant's trademark. Finally, the disputed domain name resolves to a hosting provider's parking page offering it for sale, which is not a bona fide offering of goods or services for legitimate non-commercial or fair use – as previous UDRP Panels have confirmed.

3. The disputed domain name was registered and is being used in bad faith

As shown, the disputed domain name <bollore-agency.com> is confusingly similar to the Complainant's distinctive and widely known BOLLORE trademark and the <.com> domain name associated with it, making it reasonable to infer that the Respondent registered the domain name with full knowledge of the Complainant's trademarks. The Complainant draws attention here to its activities worldwide and the fact that it is one of the 500 largest companies in the world.

As also shown, the disputed domain name resolves to a parking page where it is displayed as being for sale. The Respondent is thus using the disputed domain name to attract internet users for commercial gain by illegitimately using the Complainant's trademark, which constitutes evidence of bad faith use in addition to the bad faith registration already explained.

RESPONDENT:

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown that the disputed domain name is identical or confusingly similar to trademarks 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 that 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

1. Fulfilment of procedural requirements

The Panel is satisfied that all procedural requirements under UDRP are met in this proceeding and that there is no other reason why it would be inappropriate to provide a decision.

2. Résumé of contentions

The Panel notes that, in this uncontested case, its résumé of the Parties' contentions includes only the Complainant's essential arguments, while it is unnecessary in this case's clear factual circumstances to repeat the Complainant's references to numerous past UDRP panels' Decisions.

A contention made as to a prima facie standard of proof regarding absence of a Respondent's rights or legitimate interest is similarly immaterial to the circumstances of the present proceeding in view of the Complainant having adduced factors easily surpassing such a threshold. That contention is thus also omitted from the Panel's résumé of the Parties' contentions and from consideration in reaching its Decision.

PRINCIPAL REASONS FOR THE DECISION

The Panel finds for the purposes of the UDRP three-part cumulative test that:

(1) the Complainant has established its own rights through the evidence it has adduced (see Identification of Rights) and has shown the disputed domain name to be confusingly similar to its protected BOLLORE trademark. The addition of the generic term "agency" to the term BOLLORE in the disputed domain name, accompanied by a hyphen, is susceptible to being understood by internet users as connoting a commercial relationship of agency between the Complainant and the domain name holder. This addition thus in no way detracts from the dominant feature of the Complainant's trademark in the disputed domain name. Nor does repetition in the disputed domain name of the same TLD technical suffix <.com> that appears in the Complainant's domain name;

(2) the Respondent has on the evidence no right or legitimate interest in the disputed domain name, whereas the conduct exhibited under (1) is instead plainly inconsistent with there being any legitimate interest attributable to the Respondent in the disputed domain name;

(3) the factors adduced by the Complainant indicate that the Respondent has engaged in a simple form of cybersquatting, namely speculative domain name parking, intended to attract offers indiscriminately from third parties wishing illegitimately to exploit confusing similarity with a protected brand, this in this proceeding being that of the Complainant. Such conduct amounts to a textbook example of bad faith registration and use.

The Panel accordingly finds for the Complainant and orders the transfer of the disputed domain name to it.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **bollore-agency.com**: Transferred

PANELLISTS

Name	Kevin Madders
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DATE OF PANEL DECISION	2023-05-11
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Publish the Decision
