

Decision for dispute CAC-UDRP-105673

Case number	CAC-UDRP-105673
Time of filing	2023-08-01 09:42:19
Domain names	bolloretransport-logistics.com

Case administrator

Name	Olga Dvořáková (Case admin)
------	-----------------------------

Complainant

Organization	BOLLORE SE
--------------	------------

Complainant representative

Organization	NAMESHIELD S.A.S.
--------------	-------------------

Respondent

Organization	Alex Morgan
--------------	-------------

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 following trademarks comprising the terms "BOLLORE LOGISTICS":

- BOLLORE LOGISTICS® International reg. no. 1025892 registered since July 31, 2009;
- BOLLORE LOGISTICS® International reg. no. 1302823 registered since January 27, 2016;
- BOLLORE TRANSPORT & LOGISTICS® International reg. no. 1302822 registered on January 27, 2016.

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

FACTUAL BACKGROUND

The BOLLORE group (the Complainant) was founded in 1822 and is active around three business lines: Transportation and Logistics, Communication, and Industry.

The business line BOLLORE TRANSPORT & LOGISTICS is a major international transport and logistics operator.

The disputed domain name <bolloretransport-logistics.com> was registered on July 25, 2023. It resolved to a website through which, according to the Complainant's submissions, attempted to pass off as the Complainant subsidiary BOLLORE TRANSPORT & LOGISTICS.

PARTIES CONTENTIONS

COMPLAINANT:

As regards the First element of the Policy, the Complainant states that the disputed domain name <bolloretransport-logistics.com> is confusingly similar to its trademark BOLLORE TRANSPORT & LOGISTICS® and its domain name <bollore-transport-logistics.com>. In particular the disputed domain name incorporates the Complainant's trademark, without the "&" which according to the Complainant does not eliminate the likelihood of confusion with the trademark.

As regards the Second element of the Policy, the Complainant supports that the Respondent is not commonly known by the disputed domain name and that its use does not amount to a bona fide offering of goods and services nor to a legitimate non commercial use.

As regards the Third element of the Policy, the Complainant supports that, given the reputation of the Complainant's trademark and the use of the disputed domain name, the Respondent was aware of the Complainant's rights on the BOLLORE TRANSPORT & LOGISTICS trademarks. Moreover the use of the disputed domain name creates a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the respondent's website or location

RESPONDENT:

The Respondent did not reply to the Complaint.

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

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

The Panel agrees that the disputed domain name is confusingly similar to the Complainant's prior trademarks. In particular the disputed domain name is identical to the prior trademark "BOLLORE TRANSPORT & LOGISTICS®" and it contains the other trademarks "BOLLORE LOGISTICS®". According to a consolidated case law if the trademark is entirely comprised in the disputed domain name, the threshold requested by the First element of the Policy is met. In the panel's view the substitution of the "&" element with the "-" has no impact in the confusing similarity assessment.

Furthermore, the addition of the ".com" gTLD is generally disregarded for assessing confusing similarity in view of its technical function.

As a consequence, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademarks, for the purposes of the First Element of the Policy.

2. The Respondent lacks rights or legitimate interests in the disputed domain name.

The Respondent has not submitted a response to the Complaint. Therefore, it has filed no information on possible rights or legitimate interests it might hold on the domain name <bolloretransport-logistics.com>. On its part, the Complainant has submitted information and arguments which, according to the Panel, are sufficient to conclude that the Respondent has no rights or legitimate interest in the disputed domain name.

According to the information provided by the Complainant, and not contested, the Respondent is not commonly known by the disputed domain name nor he has been authorized to use the Complainant's trademark. Additionally, the information included in the WHOIS does not confer a right or legitimate interest in registering the disputed domain name.

The Panel agrees that the use of the disputed domain name does not amount to a bona fide offering of goods and services nor to a legitimate non-commercial use for the purpose of the Policy. The Complainant proved that the disputed domain name redirected to a website that reproduced the same look and feel of the Complainant's official website. It is clear that the disputed domain name is used in a way that could induce users to think that the Respondent is part of the Complainant's official network. Past Panels have held that using a disputed domain name to offer competing products to that of a complainant is not a use indicative of rights or legitimate interests. See for instance Forum Case No. FA 1659965, General Motors LLC v. MIKE LEE ("Past panels have decided that a respondent's use of a domain to sell products and/or services that compete directly with a complainant's business does not constitute a bona fide offering of goods or services pursuant to Policy ¶ 4(c)(i) or a legitimate noncommercial or fair use pursuant to Policy ¶ 4(c)(iii).").

For these reasons, the Panel takes the view that the Respondent lacks rights or legitimate interests in the disputed domain name for the purposes of the Policy.

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

The Respondent was clearly aware that the Complainant conducted its business under the BOLLORE TRANSPORT & LOGISTICS and BOLLORE LOGISTICS trademarks as:

- i) the disputed domain name was registered well after the Complainant's trademark registrations;
- ii) the disputed domain name redirected to a website which was very similar to the Complainant's official website.

Thus the Panel concludes that the disputed domain name was registered in bad faith since the Respondent had knowledge of the Complainant's prior trademarks and business.

As regards the use in bad faith, the Panel agrees that <bolloretransport-logistics.com> is used in a way that could create risk of confusion with the Complainant's business. As a matter of fact, the disputed domain name operated a website which used, without the Complainant's authorization, the Complainant's trademarks and images of the Complainant's facilities. Such use could create confusion among the public and is considered as an index of use in bad faith.

All above considered, the Panel takes the view that the disputed domain name was registered and is used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **bolloretransport-logistics.com**: Transferred

PANELLISTS

Name	Andrea Mascetti
------	------------------------

DATE OF PANEL DECISION **2023-09-05**

Publish the Decision
