

Decision for dispute CAC-UDRP-105946

Case number CAC-UDRP-105946

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Domain names bolorelogistics.com

Case administrator

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

Complainant

Organization BOLLORE SE

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Name Loginit CyberSec LTD

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

- International Trade Mark Registration No. 1025892 BOLLORE LOGISTICS and Device registered since 31 July 2009; and
- International Trade Mark Registration No. 1302823 BOLLORE LOGISTICS and Device registered since 27 January 2016.

FACTUAL BACKGROUND

The Complainant is one of the 500 largest companies in the world. It is part of the BOLLORE Group. The BOLLORE Group has over 56,000 employees world-wide with revenue of 20,677 million euros, adjusted operating income in the amount of 1,502 million euros and the shareholders' equity in the amount of 36,568 million euros based on the results in 2022.

The Complainant's subsidiary BOLLORE LOGISTICS is a global transport and logistics company. It has a presence in 146 countries and more than 15,000 employees.

The Complainant owns trademarks including the wording "BOLLORE LOGISTICS" in a number of countries, including through international trademarks listed above.

The Complainant also owns the domain name <bollore-logistics.com> registered since 20 January 2009.

The disputed domain name <bolorelogistics.com> was registered on 30 November 2023. The disputed domain name redirects to the Complainant's official BOLLORE LOGISTICS website located at <bollore-logistics.com>.

The disputed domain name is registered in the name "Loginit CyberSec LTD" who provides an address in Kenya.

PARTIES CONTENTIONS

The Complainant contends 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

Paragraph (4)(a) of the Policy lists three elements that the Complainant must prove to merit a finding that the disputed domain name registered by the Respondent be transferred to the Complainant:

- 1) the disputed domain name is identical or confusingly similar to a trademark or service mark ("mark") in which the Complainant has rights; and
- 2) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- 3) the disputed domain name has been registered and is being used in bad faith.

The Panel is satisfied that the Complainant has satisfied all three elements for the principal reasons set out below.

RIGHTS IN AN IDENTICAL OR CONFUSINGLY SIMILAR TRADEMARK

As mentioned above the Complainant asserts it has trademark registrations consisting of the words "BOLLORE LOGISTICS" together with simple graphic devices. At least one of these registrations predates the registration date of the disputed domain name by over a decade.

To satisfy paragraph 4(a)(i) of the Policy it is enough that the Panel is satisfied that the Complainant has registered rights in a trademark that predates the registration of the disputed domain name in a single jurisdiction (even if that single jurisdiction is not one in which the Respondent resides or operates) (Koninklijke KPN N.V. v. Telepathy, Inc D2001-0217 (WIPO 7 May 2001); see also WIPO Case Nos. D2012-0141 and D2011-1436). The Complainant has clearly satisfied such in relation to the trademark "BOLLORE LOGISTICS" together with a simple graphic device.

The next question is whether the disputed domain name is confusingly similar to the "BOLLORE LOGISTICS" and device trademark.

The Panel disregards the gTLD suffix ".com" for the purpose of this comparison. It is of no brand significance and it is likely to be totally ignored by web users. Such web users are likely to focus entirely on the only distinctive element in the disputed domain name, being the BOLORELOGISTICS element.

This BOLORELOGISTICS element is strikingly similar to the "BOLLORE LOGISTICS" and device trademark. The graphic device element in the latter mark is simple in appearance and, without doubt, the dominant element of the mark is the words "BOLLORE LOGISTICS". The disputed domain name differs from these only in the deletion of an "l" and the deletion of a space. Such changes are insignificant and do nothing to relieve the confusion caused by the remaining striking similarities.

The disputed domain name is therefore confusingly similar to the "BOLLORE LOGISTICS" and device trademark.

NO RIGHTS OR LEGITIMATE INTERESTS

The Respondent's name is "Loginit CyberSec LTD". This name bears no resemblance to "BOLORELOGISTICS". Further, redirecting web users to the Complainant's website without authority does not indicate any right or legitimate interest in the disputed domain name on the part of the Respondent.

The Respondent has no rights or interests in the disputed domain name.

BAD FAITH

As can be observed from the above facts, BOLLORE LOGISTICS is a well-known trade mark. It is entirely unforeseeable that a reasonable person residing in Kenya could register the strikingly similar disputed domain name without knowledge of the Complainant's rights. To the contrary, it is put beyond doubt that the Respondent knew of such rights by the fact they redirected the disputed domain name to the official BOLLORE LOGISTICS website.

The Panel finds that there is no explanation for the Respondent's conduct that is consistent with it acting in good faith. Given the Respondent's knowledge of the Complainant's rights at the time of registering the disputed domain name and the subsequent redirection to the Complainant's own website it is apparent to the Panel that the only purpose in registering the disputed domain name was to opportunistically profit from confusing similarity. Such opportunism could occur, for example, through using the dispute domain name for phishing emails in circumstances where the recipient of such emails could be misled by the fact the disputed domain name, if entered in a web browser, directed the user to a website operated by the Complainant.

Therefore, in consideration of all the circumstances the disputed domain name has been registered and is being 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. **bolorelogistics.com**: Transferred

PANELLISTS

Name	Andrew Sykes
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DATE OF PANEL DECISION 2023-12-05

Publish the Decision
