

Decision for dispute CAC-UDRP-105997

Case number CAC-UDRP-105997

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Domain names bolloreagency.com

Case administrator

Name Olga Dvořáková (Case admin)

Complainant

Organization BOLLORE SE

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Name Elie Kassis

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 owner of International Registered Trademark no. 704697 for mark BOLLORÉ, registered on December 11, 1998 in Classes 16, 17, 34, 35, 36, 38, and 39, designated in respect of over 40 territories.

FACTUAL BACKGROUND

The Complainant's corporate group was founded in 1822 and now focuses on three business lines, namely transportation and logistics, communication and media, and electricity storage and solutions. The Complainant is listed on the Paris Stock Exchange and is one of the 500 largest companies in the world.

In addition to the Complainant's BOLLORÉ registered trademark, the Complainant owns a domain name portfolio containing domain names such as <bollore.com>, registered since July 25, 1997.

The disputed domain name was registered on November 15, 2023 and resolves to a parking page containing commercial links.

PARTIES CONTENTIONS

Complainant:

The disputed domain name is confusingly similar to the Complainant's BOLLORÉ trademark as it includes this in its entirety. The addition of the term "agency" is not sufficient to escape the finding that the domain name is confusingly similar to the Complainant's trademark and does not prevent the likelihood of confusion.

The addition of the generic Top-Level Domain ".com" does not change the overall impression of the designation as being connected to the Complainant's trademark or prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and its associated domain names.

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

The Respondent is not identified in the Whois database as the disputed domain name. Previous panels have held that a respondent is not commonly known by a domain name if the Whois information is not similar thereto. The Respondent is not related to the Complainant in any way. The Complainant does not carry out any activity for the Respondent and has no business with it. No license nor authorization has been granted to the Respondent to make any use of the Complainant's BOLLORÉ trademark or to apply for registration of the disputed domain name.

The disputed domain name resolves to a parking page with commercial links. Previous panels have found that this is not a bona fide offering of goods or services or legitimate non-commercial or fair use.

The disputed domain name was registered and is being used in bad faith. Previous panels under the Policy have confirmed the notoriety of the Complainant and its BOLLORÉ trademark. The Complainant engages in worldwide activities and is one of the 500 largest companies in the world.

Given the distinctiveness of the Complainant's trademark and reputation, it is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademark.

The disputed domain name resolves to a parking page with commercial links. The Respondent has attempted to attract Internet users for commercial gain to its own website because of the Complainant's trademark, which is evidence of bad faith.

Respondent:

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 Complainant has demonstrated to the Panel's satisfaction that it has UDRP-relevant rights in its BOLLORÉ trademark by virtue

of International Registered Trademark Number 704697. The Second-Level Domain of the disputed domain name contains the said trademark in its entirety, suffixed with the word “agency”, which has no distinguishing significance. The said mark is therefore fully recognizable in the disputed domain name based upon a straightforward side-by-side comparison. The generic Top-Level Domain in respect of the disputed domain name, namely “.com”, is typically disregarded for the purposes of the comparison under the first element analysis of the Policy. The fact that the Complainant’s mark contains an accented acute letter “É” is also of no significance to the comparison exercise as such letters cannot be reproduced in a non-internationalized domain name and are typically substituted by the non-accented version. Accordingly, the Panel finds that the disputed domain name is confusingly similar to the Complainant’s BOLLORÉ trademark, noting that for the purposes of the comparison exercise the Panel is able to excise the word element of the trademark from the design or stylized aspects.

With regard to the second element of the Policy, the Complainant asserts that the Respondent is not commonly known by the disputed domain name (according to a review of the corresponding Whois information), that the Respondent is not affiliated with, licensed nor authorized by the Complainant in any manner, that the Complainant carries out no activity for the Respondent and has no business with it, and that no license nor authorization has been granted to the Respondent by the Complainant to make any use of the Complainant’s said trademark or to apply for registration of the disputed domain name. The Complainant submits, with corresponding evidence, that the disputed domain name is being used for a parking page with commercial advertising links.

The Panel finds that the Complainant’s assertions, taken together, are sufficient to constitute the requisite prima facie case that the Respondent has no rights and legitimate interests in the disputed domain name (see, for example, section 2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“WIPO Overview 3.0”). The disputed domain name reflects the Complainant’s corporate name and well-known trademark and merely couples this to the dictionary word “agency” being a word commonly used in connection with commercial activities. The composition of the disputed domain name effectively impersonates or suggests endorsement by the Complainant and, as such, cannot constitute fair use. Furthermore, the website associated with the disputed domain name points to a parking page containing advertising links which are likely to be taking advantage of the notoriety, reputation and goodwill of the Complainant’s mark unfairly to maximize the number of clicks or impressions, such that this cannot give rise to rights or legitimate interests in the disputed domain name. The fact that the page concerned may be provided by the Respondent’s registrar does not alter this view as the Respondent is ultimately responsible for the content.

The Respondent has not replied to the Complainant’s allegations and evidence in this case and has failed to set out any alleged rights or legitimate interests which it might have claimed in the disputed domain name. There are no submissions or evidence on the record which might serve to rebut the Complainant’s prima facie case. Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

The Panel finds that the disputed domain name has been registered and is being used in bad faith. The Complainant’s trademark registration and business are long-established and pre-date the registration of the disputed domain name to a considerable extent. The record shows that the Complainant is one of the 500 largest companies in the world and, as such, may be expected to be of substantial notoriety. Previous panels under the Policy have accepted that the Complainant’s trademark is well-known, see for example, BOLLORÉ v. Hubert Dadoun, CAC Case No. 101696, “As the Complainant is also one of the largest 500 companies in the world, the Panel accepts the Complainant’s contention that their trademark has a strong reputation and is in fact to be considered well-known.” It is therefore entirely reasonable in the absence of any countervailing submissions or evidence to infer that the disputed domain name was registered by the Respondent with an awareness of the Complainant and its rights, and with an intent to target these.

The website associated with the disputed domain name features commercial advertising links. The Panel is satisfied, on the balance of probabilities, that the disputed domain name takes unfair advantage of the notoriety of the Complainant’s name and trademark to maximize the traffic to the Respondent’s website in order to benefit from the corresponding advertising impressions. As noted above, the use of such advertising links is indicative of registration and use in bad faith even if the Respondent has not directly published the links concerned, as the registrant of a domain name is generally deemed responsible for the content on any associated website. In terms of paragraph 4(b)(iv) of the Policy, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant’s mark as to source, sponsorship, affiliation, or endorsement of its website.

In all of these circumstances, the Panel considers that the Complainant has made out a sufficient case of registration and use in bad faith within the meaning of the Policy. The Respondent has not filed a Response in this case and therefore has not sought to address the Complainant’s allegations of bad faith registration and use in any way. The Respondent has not offered any explanation that might have suggested that its actions regarding the disputed domain name were in good faith, and the Panel has been unable to identify any conceivable good faith explanation which the Respondent might have put forward in this case.

In all of these circumstances, the Panel finds that 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. **bolloreagency.com**: Transferred

PANELLISTS

Name **Andrew Lothian**

DATE OF PANEL DECISION **2023-12-14**

Publish the Decision
