Decision for dispute CAC-UDRP-106213

Case number	CAC-UDRP-106213
Time of filing	2024-01-31 09:23:13
Domain names	bollorelogistcs.com

Case administrator

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

Complainant

Organization	BOLLORE SE

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Organization	Bollore Logistics

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, founded in 1822, is a French company focused on three business lines as Transportation and Logistics, Communication and Media, Electricity Storage and Solutions.

The Complainant owns the following trademarks:

- International Trademark BOLLORÉ LOGISTICS AND DESIGN, Reg. No. 1025892, registered on July 31, 2009, and in force until July 31, 2029;
- International Trademark BOLLORÉ LOGISTICS AND DESIGN, Reg. No. 1302823, registered on January 27, 2016, and in force until January 27, 2026.

FACTUAL BACKGROUND

The Complainant, founded in 1822, is a French company (the Bolloré Family), focused on three business areas as Transportation and Logistics, Communication and Media, Electricity Storage and Solutions. The Complainant is one of the 500 largest companies in the world.

The Complainant is listed on the Paris Stock Exchange. According to its 2022 Report, the Complainant has more than 56,000

employees in 104 countries, with 20,677 million euros as revenues, an operating income of 1,502 million euros and a shareholders' equity in the amount of 36,568 million euros.

The Complainant´s subsidiary BOLLORÉ LOGISTICS is a global leader in international transport and logistics, with presence in 146 countries and more than 15,000 employees.

The Complainant also owns the following domain names <bollore-logistics.com> registered on January 20, 2009; and <bollore.com> registered on July 25, 1997.

The disputed domain name <**bollorelogistcs.com**> was registered on January 27, 2024 and resolves to an inactive website.

PARTIES CONTENTIONS

Complainant Contentions:

- In relation to the first element of the Policy, the Complainant contends in summary that the disputed domain name <bollorelogistcs.com> is confusingly similar to its well-known trademark BOLLORÉ LOGISTICS, which it has been misspelled in the disputed domain name by the deletion of the letter "i" [over the second vowel of the word "Logistics"], which is not sufficient to avoid the likelihood of confusion with the Complainant's trademark and constitutes a clear case of Typosquatting, citing Bollore SE v. Name Redacted, WIPO Case No. D2022-2735; BOLLORE SE v. Malcolm Perry, CAC Case No. 104261.

- In relation to the second element of the Policy, the Complainant contends in summary that the Respondent has no rights or legitimate interests in respect of the disputed domain name, since the Respondent it is not commonly known by the disputed domain name, despite the information provided by the Registrar, where the Respondent has been identified as "Bollore Logistics" (Registrant Organization Name); "Im Love" (Registrant); located in Minneapolis, Minnesota, US; city where the Complainant has no official business activity and/or presence; that the provided email is not controlled by the [real] affiliate BOLLORÉ Logistics USA; that the Respondent is not affiliated with nor authorized by the Complainant in any way; that the Complainant does not carry out any activity for, nor has any business with the Respondent; that either license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark BOLLORÉ LOGISTICS, or apply for registration of the disputed domain name by the Complainant; that the disputed domain name is a typosquatted version of the trademark BOLLORÉ LOGISTICS, citing The Hackett Group, Inc. v. Brian Herns / The Hackett Group, Forum Case No. 1597465 ("The Panel agrees that typosquatting is occurring, and finds this is additional evidence that Respondent has no rights or legitimate interests under Policy 4(a)(ii)").

- In relation to the third element of the Policy, the Complainant contends in summary that given the notoriety and distinctiveness of the Trademark BOLLORÉ LOGISTICS, confirmed by previous UDRP panelists (g.: BOLLORE v. Donald Shillam, CAC Case No. 102031; BOLLORE SA v. JESSICA SAXTON, CAC Case No. 101500; Bollore v. WhoIs Privacy Protection Foundation / Anderson Paul, WIPO Case No. D2019-2112) the Respondent registered the disputed domain name in knowledge of the Complainant; that the incorporation of a famous mark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use, citing Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003 and CBS Broadcasting, Inc. v. Dennis Toeppen, WIPO Case No. D2000-0400.

Response

The Respondent did not reply to any of the Complainant's contentions.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is 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 the Policy were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

In accordance with Paragraph 4(a) of the Policy, the onus is on the Complainant to prove:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;

(ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and

(iii) the disputed domain name has been registered and is being used in bad faith.

The Panel will consider each of these requirements in turn.

Identical or Confusingly Similar

The Panel notes that there are no disclaimers over the textual components of the Complainant's Trademark. According to the evidence submitted, the Complainant has sufficiently proved of having Trademark Rights over the word BOLLORÉ LOGISTICS, since 2009.

In relation to 'trademark registrations with design elements', UDRP panelists have stated that: "Panel assessment of identity or confusing similarity involves comparing the (alpha-numeric) domain name and the textual components of the relevant mark. To the extent that design (or figurative/stylized) elements would be incapable of representation in domain names, these elements are largely disregarded for purposes of assessing identity or confusing similarity under the first element." (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), section 1.10).

Therefore, the figurative elements are disregarded in this case (see Bollore SE v. Robert Peter, Bollore Logistics, WIPO Case No. D2023-0208).

The disputed domain name <**bollorelogistcs.com**> [registered in Latin alphabet-based or non-accented characters] incorporates the Complainant's Trademark BOLLORÉ LOGISTICS misspelled, by the deletion of the second vowel "i" of the word "LOGISTICS" resulting in "LOGISTCS", which it is an obvious misspelling of the Complainant's Trademark, constituting a typical act of Typosquatting, intended to create confusing similarity between the Complainant's Trademark and the disputed domain name (see Bollore SE v. Name Redacted, WIPO Case No. D2023-2735 and WIPO Overview 3.0, section 1.9).

In relation to the gTLD ".com", it is well established that such element may typically be disregarded when it is used as a technical requirement of a domain name (see WIPO Overview 3.0, section 1.11.1).

Therefore, the disputed domain name <**bollorelogistcs.com**> is confusingly similar to Complainant's Trademark BOLLORÉ LOGISTICS.

Rights or Legitimate Interests

According to the evidence submitted, and in particular given the lack of any communication or Response by the Respondent, this Panel determines that the Complainant has established its prima facie case in relation to the second element of the Policy (WIPO Overview 3.0, section 2.1). To this Panel it is clear that:

(1) there is no evidence that the Respondent has become commonly known by the term "bollorelogistcs.com", despite the WhoIs information provided by the Registrar, where the Respondent (Organization Name) appears to be as "Bollore Logistics".

(2) the Respondent purposely selected a worldwide well-known trademark as BOLLORÉ LOGISTICS which has been registered in multiple jurisdictions, including in the United States, where the Respondent seems to be located, intentionally misspelled it, suggesting a false affiliation, confusing the users who seeks or expects to find the Complainant on the Internet.

(3) the Respondent is not associated or affiliated to the Complainant, despite of the WhoIs information, where [the Organization Name] appears to be named as "Bollore Logistics", fact that to this Panel, only reconfirms the Respondent's knowledge about the Complainant's business, its official affiliate and Trademark's value.

(4) the Complainant and/or its affiliate in the US (BOLLORÉ Logistics USA), have not granted any rights to the Respondent to use the BOLLORÉ LOGISTICS Trademark, whether a license to offer any product or service, or any rights to apply for the registration of the disputed domain name.

(5) there is no evidence showing that the Respondent has been using, or preparing to use, the disputed domain name in connection

with a bona fide offering of goods and services or has made a legitimate noncommercial or fair use of the disputed domain name, in particular if the disputed domain name is the result of an act of typosquatting and it has been passively held by the Respondent, as it is in the present case.

Therefore, this Panel concludes, that the Respondent has no rights or legitimate interests in respect of the disputed domain name <**bollorelogistcs.com**>.

Registered and Used in Bad Faith

Registration in Bad Faith:

The Complainant acquired its Trademark Rights over the word BOLLORÉ LOGISTICS in 2009 (e.g.: Reg. No. 1025892). The disputed domain name was registered on January 27, 2024, meaning 15 years after the Complainant established its Trademark Rights. According to the evidence submitted before this Panel, the Complainant is a French large and long-established international business, with a well-known Trademark as BOLLORÉ LOGISTICS with significant commercial activity, including on the Internet (see e.g.: BOLLORE SE v. Elie Kassis, CAC-UDRP Case No. 105997; BOLLORE v. Hubert Dadoun, CAC-UDRP Case No. 101696; BOLLORE SE v. amadi bon, CAC-UDRP Case No. 105470).

Given the Complainant´s submitted evidence, the fact that the Respondent was identified as "Bollore Logistics / Im Love", the Typosquatting practiced by the Respondent over a well-known, international and established Trademark as BOLLORÉ LOGISTICS, shows to this Panel, that the Respondent was fully aware about the Complainant's business activity and Trademark´s value at the moment of the registration of the disputed domain name, doing it with Complainant's in mind (see WIPO Overview 3.0, sections 3.2.1 and 3.2.2).

Therefore, this Panel concludes that the disputed domain name was registered in bad faith.

Bad Faith Use:

As described along this Decision, the disputed domain name has remained inactive. In relation to the Passive Holding Doctrine, among multiple UDRP Panel´s Decisions, and in particular, according to the WIPO Overview 3.0, section 3.3, which states that:

> "From the inception of the UDRP, panelists have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding.
>
> While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include:
>
> (i) the degree of distinctiveness or reputation of the complainant's mark,
>
> (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use,
>
> (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and
>
> (iv) the implausibility of any good faith use to which the domain name may be put."

In the present dispute, the Complainant has proved that:

(i) BOLLORÉ LOGISTICS is a well-known Trademark, which enjoys distinctiveness and reputation;

(ii) the Respondent failed to submit any communication and/or a Response;

(iii) the Respondent made use of a privacy service; identified itself as the Complainant's affiliate (Organization Name: "Bollore Logistics"), with it providing false information, constituting a clear attempt of avoiding any notification or causing delay concerning a domain name's dispute and of course, breaching the registration agreement;

(iv) the disputed domain name has been passively held, resulting in an inactive website, allowing the Respondent to incur at any time, at any moment in further and complex infringements on direct detriment of the Complainant's business, its Trademark and the Internet user (see e.g.: Comericaila Inc. v. Horoshiy, Inc., WIPO Case No. D2004-0615; ACCOR v. ACCOR Tours, WIPO Case No. D2004-1001; CareerBuilder, LLC v. Finity Development Group, WIPO Case No. D2006-0615; Bollore SE v. Robert Peter, Bollore Logistics, WIPO Case No. D2023-0208; BOLLORE SE v. amadi bon, CAC Case No. 105470).

Therefore, this Panel concludes that, the disputed domain name is being used in faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **bollorelogistcs.com**: Transferred

PANELLISTS

Name	**María Alejandra López García**

DATE OF PANEL DECISION 2024-02-26

Publish the Decision