# Decision for dispute CAC-UDRP-106575

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| Case number | CAC-UDRP-106575 |
| Time of filing | 2024-05-31 09:33:41 |
| Domain names | fast-bollore.com |

## Case administrator

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

## Complainant

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| Organization | BOLLORE SE |

## Complainant representative

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| Organization | NAMESHIELD S.A.S. |

## Respondent

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| Name | Ekkehard Wiegand |

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 several trademarks including the term “BOLLORE”, such as the international trademark BOLLORE n° 704697 registered on December 11, 1998.

FACTUAL BACKGROUND

The Complainant is one of the 500 largest companies in the world. It now holds strong positions in all its activities around three business lines: Transportation and logistics, Communications, Industry. The disputed domain name <fast-bollore.com> was registered on May 27, 2024. It is inactive. Besides, MX servers are configured.

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).

The disputed domain name <fast-bollore.com> is confusingly similar to the Complainant's trademark BOLLORE. Indeed, the trademark is identically contained.

The Complainant asserts that the addition of the generic term "FAST" is not sufficient to escape the finding that the domain name is confusingly similar to the trademark and branded goods BOLLORE. It does not change the overall impression of the designation as being connected to the Complainant's trademark BOLLORE. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and the domain name associated. It is well established that "a domain name that wholly incorporates a Complainant's registered trademark may be sufficient to establish confusing similarity for purposes of the UDRP". Please see WIPO Case No. D2003-0888, Dr. Ing. h.c. F. Porsche AG v. Vasiliy Terkin.

On the contrary, the addition of the term "FAST" reinforces the risk of confusion as it refers to the Complainant subsidiary "FAST BOLLORE LOGISTICS" established in Lebanon and which has become one of the major freight companies in the region.

Moreover, the Complainant contends that the addition of the generic Top-Level Domain suffix ".COM" does not change the overall impression of the designation as being connected to the trademark BOLLORE. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and its domain names associated.

See WIPO Case No. D2006-0451, F. Hoffmann-La Roche AG v. Macalve e-dominios S.A. ("It is also well established that the specific top level of a domain name such as ".com", ".org" or ".net" does not affect the domain name for the purpose of determining whether it is identical or confusingly similar.").

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).

According to the WIPO Case No. D2003-0455, Croatia Airlines d. d. v. Modern Empire Internet Ltd., the Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a) (ii) of the Policy.

The Respondent is not known as the disputed domain name. Past panels have held that a Respondent was not commonly known by a disputed domain name if the Whois information was not similar to the disputed domain name. Thus, the Respondent is not known as the disputed domain name.

The Respondent is not affiliated with nor authorized by BOLLORE SE in any way. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant does not carry out any activity for, nor has any business with the Respondent.

Moreover, neither licence nor authorization has been granted to the Respondent to make any use of the Complainant's trademark BOLLORE, or apply for registration of the disputed domain name <fast-bollore.com> by the Complainant.

The disputed domain name resolves to an inactive page. The Respondent did not use the disputed domain name, and it confirms that Respondent has no demonstrable plan to use the disputed domain name. Please see for instance Forum Case No. FA 1773444, Ashley Furniture Industries, Inc. v. Joannet Macket / JM Consultants ("The Panel finds that Respondent's lack of content at the disputed domain shows the lack of a bona fide offering of goods or services or a legitimate noncommercial or fair use per Policy ¶¶ 4(c)(i) and (iii).").

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).

The Complainant's trademark BOLLORE is well-known and distinctive. Past panels have confirmed the notoriety of the trademark BOLLORE in the following cases:

- CAC Case No. 102015, BOLLORE SA v. mich john ("the Panel takes note, again, of the distinctiveness of the Complainant's brand and the intention that must be presumed to exist in registering a domain name bearing such confusing similarity with well-known brand name.");
- CAC Case No. 101696, BOLLORE v. Hubert Dadoun ("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.")".

Moreover, the addition of the term "FAST" to the trademark "BOLLORE" in the disputed domain name cannot be coincidental as it refers to the Complainant's subsidiary FAST BOLLORE LOGISTICS. Thus, given the distinctiveness of the Complainant's trademarks and reputation, it is inconceivable that the Respondent could have registered the disputed domain name <fast-bollore.com> without actual knowledge of Complainant's rights in the trademark.

Furthermore, the disputed domain name is inactive. The Respondent has not demonstrated any activity in respect of the disputed domain name, and it is not possible to conceive of any actual or contemplated active use of the domain name by the Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant's rights under trademark law.

As prior WIPO UDRP panels have held, the incorporation of a famous mark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use.

Finally, although the domain name appears to be unused, it has been set up with MX records which suggests that it may be actively used for e-mail purposes. Please see similar case CAC Case No. 102827, JCDECAUX SA v. Handi Hariyono ("There is no present use of the disputed domain name but there are several active MX records connected to the disputed domain name. It is concluded that it is inconceivable that the Respondent will be able to make any good faith use of the disputed domain name as part of an e-mail address.").

## 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.

Further to the information provided by the Registrar, the registration agreement is German.

Nevertheless, the language in this case shall be English for the following grounds:

- The choice of language is related to the combined fact that the English language is the language most widely used in international relations and is the working language of the Center;

- The disputed domain name refers to the Complainant's subsidiary which communicates in English. This indicates that the Respondent understands English;

- In order to proceed in German, the Complainant would have had to retain specialized translation services at a cost very likely to be higher than the overall cost of these proceedings. The use of German in this case would therefore impose a burden on the Complainant which must be deemed significant in view of the low cost of these proceedings.

## PRINCIPAL REASONS FOR THE DECISION

The Complainant's trademark BOLLORE is well-known and distinctive. Moreover, the addition of the term "FAST" to the trademark "BOLLORE" in the disputed domain name cannot be coincidental as it refers to the Complainant's subsidiary FAST BOLLORE LOGISTICS. Thus, given the distinctiveness of the Complainant's trademarks and reputation, it is inconceivable that the Respondent could have registered the disputed domain name <fast-bollore.com> without actual knowledge of Complainant's rights in the trademark. Furthermore, the disputed domain name is inactive. The Respondent has not demonstrated any activity in respect of the disputed domain name, and it is not possible to conceive of any plausible actual or contemplated active use of the domain name by the Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant's rights under trademark law.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

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

## PANELLISTS

| Name | **Thomas Hoeren** |
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DATE OF PANEL DECISION 2024-06-26

Publish the Decision