Decision for dispute CAC-UDRP-106868

Case number	CAC-UDRP-106868
Time of filing	2024-09-13 13:05:59
Domain names	desarlerbollore.net, desarmebollore.net

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	BOLLORE SE

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Organization	Transure Enterprise 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 names.

IDENTIFICATION OF RIGHTS

The Complainant (BOLLORE SE) is the owner of several trademarks including the term “BOLLORE”, such as the international trademark registration BOLLORE n° 704697. The Complainant also owns and communicates on the Internet through various domain names, the main one being <bollore.com>, registered on July 24, 1997.

The disputed domain names <desarlerbollore.net> and <desarmebollore.net> have been registered on September 11, 2024.

PARTIES CONTENTIONS

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Complainant was founded in 1822. It now holds strong positions in all its activities around three business lines, Transportation and Logistics, Communication and Media, Electricity Storage and solutions.

The Complainant is one of the 500 largest companies in the world. Listed on the Paris Stock Exchange, the majority interest of the Group's stock is always controlled by the Bolloré family. The BOLLORE Group has more than 56,000 employees world-wide with the revenue that equals to 20,667 million euros, 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 disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights

The disputed domain names are confusingly similar to the Complainant's trademark BOLLORE. Indeed, the disputed domain names contain an obvious misspelling of the Complainant's trademark.

The addition of terms "desarler" or "desarme" with the trademark BOLLORE is not sufficient to exclude the likelihood of confusion with the Complainant's trademark. 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. (WIPO Case No. D2003-0888).

The addition of the gTLD ".NET" does not change the overall impression of the designation as being connected to the Complainant's trademark. It does not prevent the likelihood of confusion between the disputed domain names and the Complainant, its trademark and its domain names associated (WIPO Case No. D2006-0451). Finally, past panels confirmed the Complainant's rights over the term "BOLLORE" (CAC Case No. 105501, CAC Case No. 105274, CAC Case No. 104590).

The Respondent has no rights or legitimate interests in respect of the disputed domain names

The Complainant asserts that the Respondent is not known as the disputed domain names. 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 names.

The Respondent is not affiliated with nor authorized by the Complainant in any way. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain names. 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 or apply for registration of the disputed domain names by the Complainant.

Finally, the disputed domain names point to a parking page with commercial links. Past panels have found it 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

The Complainant's trademark BOLLORE is well-known and distinctive, and the Complainant is one of the 500 largest companies in the world. Past panels have confirmed the notoriety of the trademarks BOLLORE (CAC Case No. 102015; CAC Case No. 101696).

Thus, given the distinctiveness of the Complainant's trademark and reputation, the Complainant contends that it is inconceivable that the Respondent could have registered the disputed domain names without actual knowledge of Complainant's rights in the trademark.

Furthermore, the disputed domain names point to a parking page with commercial links. The Complainant contends the Respondent has attempt to attract Internet users for commercial gain to his own website thanks to the Complainant's trademarks for its own commercial gain, which is evidence of bad faith (WIPO Case No. D2018-0497).

Finally, the Respondent is known in such pattern of conduct - WIPO Case No. D2024-2158 Compagnie Générale des Etablissements Michelin v. Transure Enterprise Ltd ("the Panel notes that the Respondent uses the disputed domain name to redirect users to a webpage displaying PPC links related to tires redirecting towards entities unrelated to Complainant [...] The Complainant has demonstrated a pattern of bad faith conduct from the Respondent side regarding several proceedings brought under the UDRP (see Dollar Bank, Federal Savings Bank v. Above.com Domain Privacy / Transure Enterprise Ltd, WIPO Case No. D2016-0700).").

Consequently, the Complainant concludes that the Respondent has registered and is using the disputed domain names in bad faith.

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names are 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 names (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 names have been registered and are 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

For the Complainant to succeed it must prove, within the meaning of paragraph 4(a) of the Policy, that:

(i) The domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
(ii) The respondent has no rights or legitimate interests in respect of the domain name; and
(iii) The domain name has been registered and is being used in bad faith.

I. Identical or Confusingly Similar

The Complainant has established the fact that it has valid rights for the international trademark No 704697 BOLLORE registered since December 11, 1998, and that it owns domain name <bollore.com> including the trademark BOLLORE. The disputed domain names have been registered on September 11, 2024, i.e. more than25 years after the trademarks registration. The disputed domain names wholly incorporate the Complainant's trademark BOLLORE.

The terms "desarler" and "desarme" are not sufficient to exclude the likelihood of confusion with the Complainant's trademark. The term "BOLLORE" used in the disputed domain names is the dominant element of the domain names and the addition of these terms does not change the overall impression of the designation as being connected to the Complainant or its trademark.

The generic top-level domain "NET" should be disregarded in the assessment under the Policy when comparing disputed domain names and trademarks and does not change the overall impression of the designation as being connected to Complainant's trademark.

The Panel therefore considers the disputed domain names to be confusingly similar to the Complainant's trademark BOLLORE which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

II. Rights or Legitimate Interests

The Complainant has established a prima facie case (not challenged by the Respondent who did not file any response to the complaint) that the Respondent has no rights or legitimate interests in the disputed domain names, since the Respondent is not related in any way with the Complainant and there is no indication that the Respondent is commonly known by the term "BOLLORE" or its variations.

There is also no evidence, that the Respondent is making a legitimate noncommercial or fair use of the domain name.

Moreover, there is no evidence, that the disputed domain names resolve to an active website as the disputed domain names point to a parking page with commercial links only. This, therefore, does not constitute a bona fide offering of goods and services or a legitimate noncommercial fair use, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel therefore considers that the Respondent has no rights or legitimate interests in respect of the disputed domain names within the meaning of paragraph 4(a)(ii) of the Policy.

III. Registered and Used in Bad Faith

The Respondent has registered the disputed domain names which consist the full content of the Complainant's trademark "BOLLORE". There are no doubts that the Complainant's trademark is distinctive and widely known and this could be easily verified by the Respondent before the registration of the disputed domain name. It has been concluded in the past that the Complainant's trademark is well-known (CAC case No. 102015). It could be therefore concluded that the Respondent had or should have the Complainant and its trademark in mind when registering the disputed domain name and therefore could not be in good faith when registering it.

The disputed domain names point to a parking page with commercial links only and the registration of the famous trademark coupled with parking website may be evidence of bad faith registration and use.

Considering the (i) confusing similarity between the Complainant's trademark and the disputed domain names, (ii) long time between the registration of the Complainant's trademark and the disputed domain names, (iii) parking website, (iv) distinctiveness of the Complainant's trademark, and (v) the failure of the Respondent to submit a response or to provide any evidence of good faith use, the Panel finds that the disputed domain names have been registered and are being used in bad faith.

Finally, the Respondent is known in such bad faith pattern of conduct (WIPO Case No. D2024-2158 WIPO Case No. D2016-0700).

The Panel therefore considers that the disputed domain names have been registered and are being used in bad faith within the meaning of paragraph 4(a)(iii) of the Policy.

The Panel finally considers that the Complainant has shown that the disputed domain names are confusingly similar to the trademarks in which the Complainant has rights, the Respondent has no rights or legitimate interests in respect of the disputed domain names and the disputed domain names have been registered and are being used in bad faith. The Complainant has thus established all three elements of paragraph 4(a) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **desarlerbollore.net**: Transferred
2. **desarmebollore.net**: Transferred

PANELLISTS

Name	**Petr Hostaš**

DATE OF PANEL DECISION 2024-10-22

Publish the Decision