Decision for dispute CAC-UDRP-107181

Case number	CAC-UDRP-107181
Time of filing	2024-12-16 09:54:06
Domain names	bolloregroupe.org

Case administrator

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

Complainant

Organization	BOLLORE SE

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Organization	HOSTAFRICA

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

Complainant states, and provides documentation in support thereof, that it "is the owner of several trademarks including the term 'BOLLORE'," including Int'l Reg. No. 704697 for BOLLORE (registered December 11, 1998) (the "BOLLORE Trademark").

FACTUAL BACKGROUND

Complainant states that it was founded in 1822, "holds strong positions in all its activities around three business lines, Transportation and Logistics, Communication and Industry," "is one of the 500 largest companies in the world," is "[l]isted on the Paris Stock Exchange," has "more than 76,000 employees worldwide," and "has a revenue of 13,679 million euros, with a shareholders' equity of 36,406 million euros based on the results in 2023."

The Disputed Domain Name was created on December 12, 2024, and "resolves to a website template" that, as shown in an annex included with the Complaint, includes boilerplate or placeholder content, including text that says, "Additional sentence can be added here for additional supporting details about heading or to divide one lengthy supporting detail into separate, easier-to-read sentence," "Lorem Ipsum has been the industry's standard dummy text ever since the 12500s, when an unknown printer took a galley" and "I'm a paragraph. Go to SitePad Editor to add your own text and edit me. I'm a great place for you to tell a story and let your users know a little more about you." MX records have been created for the Disputed Domain Name.

PARTIES CONTENTIONS

Complainant contends, in relevant part, as follows:

Paragraph 4(a)(i): Complainant states that it has rights in the BOLLORE Trademark based on the registration cited above; and that the Disputed Domain Name is confusingly similar to the BOLLORE because the Disputed Domain Name contains the BOLLORE Trademark in its entirety plus the word "groupe" (French for "group"), which "is not sufficient to avoid the likelihood of confusion" and "does not change the overall impression of the designation as being connected to the Complainant's trademark."

Paragraph 4(a)(ii): Complainant states that Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because, inter alia, "Respondent is not known as the disputed domain name"; "Respondent is not affiliated with nor authorized by BOLLORE in any way"; "Complainant does not carry out any activity for, nor has any business with the Respondent"; and "the disputed domain name points to a template of website…, which presumes a lack of legitimate interests."

Paragraph 4(a)(iii): Complainant states that the Disputed Domain Name was registered and is being used in bad faith because, inter alia, "given the distinctiveness of the Complainant's international trademark, the Complainant claims that the Respondent has registered the domain name in knowledge of the Complainant, which evidences bad faith"; "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, an infringement of the Complainant's rights under trademark law, or an attempt to attract, for commercial gain, Internet users to his own website, by creating a likelihood of confusion with Complainant's trademark as to the source, sponsorship, affiliation or endorsement of Respondent's website"; "the incorporation of a famous mark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use"; and "the MX servers are configured… which suggests that it may be actively used for email purposes."

No administratively compliant response has been filed. However, CAC received an e-mail from the Registrar stating: "The client has requested us to delete the domain bolloregroupe.org[.] Hope we don't need to [sic] the Dispute Resolution now."

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 UDRP).

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 UDRP).

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 UDRP).

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

Identical or Confusingly Similar: Paragraph 4(a)(i):

The trademark citation and documentation provided by Complainant are sufficient to establish that Complainant has rights in the BOLLORE Trademark.

As to whether the Disputed Domain Name is identical or confusingly similar to the BOLLORE Trademark, the relevant comparison to

be made is with the second-level portion of the Disputed Domain Name only (i.e., "bolloregroupe") because "[t]he applicable Top Level Domain ('TLD') in a domain name (e.g., '.com', '.club', '.nyc') is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test." WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), section 1.11.1.

Here, the Disputed Domain Name contains the BOLLORE Trademark in its entirety, simply adding the descriptive word "groupe". As set forth in section 1.7 of WIPO Overview 3.0: "[I]n cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing." Further, as set forth in section 1.8 of WIPO Overview 3.0: "Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element."

Accordingly, the Panel finds that Complainant has proven the first element of the Policy.

Rights or Legitimate Interests: Paragraph 4(a)(ii)

Complainant states that Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because, inter alia, "Respondent is not known as the disputed domain name"; "Respondent is not affiliated with nor authorized by BOLLORE in any way"; "Complainant does not carry out any activity for, nor has any business with the Respondent"; and "the disputed domain name points to a template of website..., which presumes a lack of legitimate interests."

WIPO Overview 3.0, section 2.1, states: "While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of 'proving a negative', requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element."

The Panel finds that Complainant has established its prima facie case and, without any evidence from Respondent to the contrary, the Panel is satisfied that Complainant has satisfied the second element of the UDRP.

Registered and Used in Bad Faith: Paragraph 4(a)(iii)

Whether a domain name is registered and used in bad faith for purposes of the UDRP may be determined by evaluating four (non-exhaustive) factors set forth in paragraph 4(b) of the UDRP: (i) circumstances indicating that the registrant has registered or the registrant has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the registrant's documented out-of-pocket costs directly related to the domain name; or (ii) the registrant has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the registrant has engaged in a pattern of such conduct; or (iii) the registrant has registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) by using the domain name, the registrant has intentionally attempted to attract, for commercial gain, Internet users to the registrant's website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the registrant's website or location or of a product or service on the registrant's website or location.

As set forth in section 3.1.4 of WIPO Overview 3.0: "Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith." That is applicable here.

Further, WIPO Overview 3.0, section 3.3, states:

"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."

Here, the BOLLORE Trademark appears to be distinctive and to have a high degree of reputation given that the mark has been registered for more than 26 years and is used by a company that Complainant describes as "one of the 500 largest companies in the world" with "more than 76,000 employees worldwide," and "revenue of 13,679 million euros, with a shareholders' equity of 36,406 million euros based on the results in 2023." Further, Respondent did not submit a response or provide any evidence of actual or contemplated good-faith use. And it is implausible to conceive of any good faith use to which the Disputed Domain Name may be put.

Further, the Panel finds applicable here WIPO Overview 3.0, section 3.1.4: "Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark

plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith."

Accordingly, the Panel finds that Complainant has proven the third element of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **bolloregroupe.org**: Transferred

PANELLISTS

Name	**Douglas Isenberg**

DATE OF PANEL DECISION 2025-01-20

Publish the Decision