Decision for dispute CAC-UDRP-107510

Case number	CAC-UDRP-107510
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Domain names	bollorecanada.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	BOLLORE SE

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	James Deen

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”, including the international trademark registration BOLLORE n° 704697 registered November 12, 1998.

FACTUAL BACKGROUND

BOLLORE SE (the “Complainant”) was founded in 1822. It states that thanks to a diversification strategy based on innovation and international development, it now holds strong positions in all its activities around three business lines: Transportation and Logistics, Communication and Industry.

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. With more than 76,000 employees worldwide, the BOLLORE Group has a revenue of 13,679 million euros, with a shareholders' equity of 36,406 million euros based on the results in 2023. The Complainant also owns and communicates on the Internet through various domain names, the main one being <bollore.com>, registered on July 25, 1997.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant states that the Respondent registered the disputed domain name <bollorecanada.com> on April 20, 2025 and resolves to a hosting parking page that offers the Host's services. The Complainant states also that MX servers are configured to the disputed domain name which the Complainant suggests it may be actively used for email purposes.

Except for the addition of a geographic location the disputed domain name is identical to the Complainant's mark. The Complainant contends that it has no business relationship with the Respondent and has not granted it permission to incorporate the Complainant's mark in the disputed domain name. Further, the Complainant states that the Respondent has registered and is using the disputed domain name in bad faith.

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.

RESPONDENT:

The Respondent has not appeared formally or informally to controvert the evidence submitted by the Complainant.

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

Paragraph 15(a) of the Rules for the UDRP ('the Policy') instructs this Panel to "decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable."

Pursuant to Paragraph 4(a) of the Policy the Complainant is required to prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

(i) the domain name registered by respondent is identical or confusingly similar to a trademark or service mark in which complainant has rights; and
(ii) 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.

In view of the Respondent's failure to submit a response, the Panel shall decide this administrative proceeding on the basis of the Complainant's undisputed representations and adduced proof pursuant to paragraphs 5(f), 14(a) and 15(a) of the Rules and draw such inferences it considers appropriate pursuant to paragraph 14(b) of the Rules. The Panel is entitled to accept all reasonable allegations and inferences set forth in the Complaint and annexes as true unless the evidence is clearly contradictory. See Talk City, Inc. v. Robertson, D2000-0009 (WIPO February 29, 2000) (In the absence of a response the Panel "is left to render its decision on the basis of the uncontroverted contentions made, and the evidence supplied, by complainant").

1. Identical or confusingly similar, paragraph 4(a)(i) of the Policy.

To succeed under the first element, a complainant must pass a two-part test, to establish first that it has rights, and thereafter that the disputed domain name is either identical or confusingly similar to the mark. The first element of a UDRP complaint "serves essentially as a standing requirement." Here, the Complainant has established that it has rights in the word mark BOLLORE by providing the Panel with the evidence that it has an international registration for its mark and claims without contradiction that it has registered trademarks in other jurisdictions. The consensus view that the Panel adopts is that a national or an international trademark registration is sufficient to establish rights in that mark. As such, the Panel finds that the Complainant has established that it has a right in the word mark BOLLORE.

The second part of the test calls for comparing the Complainant's mark with the disputed domain name. It entails "a straightforward visual or aural comparison of the trademark with the alphanumeric string in the domain name. In 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." WIPO Overview 3.0 at section 1.7. The Panel observes that the single difference in this case is the addition of the word "Canada." The dominant feature is the Complainant's mark BOLLORE.

Where the relevant trademark is recognizable within the disputed domain name it is sufficient to establish confusing similarity. In this case, the Respondent adds a geographical identifier to the Complainant's mark. As the Panel noted in Bloomberg Finance L.P. v. Nexperian Holding Limited, Claim No. FA 782013 (Forum June 4, 2018), where the "relevant trademark is recognisable within a disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity under the first element."

The addition of the gTLD ".com" does not have any impact on the overall impression of the dominant portion of the disputed domain name and is therefore irrelevant in determining the confusing similarity between BOLLORE and <bollorescanada.com>.

Accordingly, Complainant has satisfied Paragraph 4(a)(i) of the Policy.

2. Rights and legitimate interests, paragraph 4(a)(ii) of the Policy.

To establish the second of the three elements, the Complainant must first demonstrate that the Respondent lacks rights and legitimate interests in the disputed domain name. Recognizing that the proof for establishing this element is under the Respondent's control, the Complainant's may satisfy this burden by offering a prima facie case based on such evidence as there is thus shifting the burden of persuasion to the Respondent to produce evidence sufficient to overcome the presumption that it lacks rights or legitimate interests in the disputed domain name.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It states that it did not authorize the Respondent to register the disputed domain name, the Respondent is not using disputed domain name for any bona fide use, nor can it claim to be known by the name "Bollore Logistics" as it has been identified in the Whois directory as James Deen.

The Complainant has adduced evidence based on the use of the disputed domain name that the Respondent is not using it for any non-commercial or fair use. See Croatia Airlines d. d. v. Modern Empire Internet Ltd., WIPO Case No. D2003-0455 (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 disputed domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a) (ii) of the UDRP). See also Advanced International Marketing Corporation v. AA-1 Corp, FA 780200 (Forum November 2, 2011) (finding that a complainant must offer some evidence to make its prima facie case and satisfy Policy paragraph 4(a)(ii)).

Here, the disputed domain name is virtually identical to the Complainant's mark. The sole difference is the addition of a geographical location. This strategy does not support a right or legitimate interest in a disputed domain name and the Panel so finds in this matter. See Emerson Electric Co. v. golden humble /golden globals, FA 1787128 (Forum June 11, 2018) ("lack of evidence in the record to indicate a respondent is authorized to use [the] complainant's mark may support a finding that [the] respondent does not have rights or legitimate interests in the disputed domain name per Policy ¶ 4(c)(ii)"). The failure of a party to

submit evidence on facts in its possession and under its control may permit the Panel to draw an adverse inference regarding those facts. See Mary-Lynn Mondich and American Vintage Wine Biscuits, Inc. v. Shane Brown, doing business as Big Daddy's Antiques, WIPO Case No. D2000-0004.

As the Respondent has not controverted the evidence that it lacks right or legitimate interests in the disputed domain name, the Panel finds that the Complainant has satisfied Paragraph 4(a)(ii) of the Policy.

Registration and Use in Bad faith:

It is the Complainant's burden under Paragraph 4(a)(iii) of the Policy to prove that the Respondent both registered and is using the disputed domain name in bad faith. It is not sufficient for the Complainant to rest its case on the finding under Paragraph 4(a)(ii) of the Policy, although the fact that the Respondent lacks rights or legitimate interests in the disputed domain name will be a factor in assessing its motivation for registering disputed domain name that is virtually identical to the Complainant's mark.

The Policy provides a non-exclusive list of circumstances that evidence registration and use of a domain name in bad faith. The preamble to Paragraph 4(b) states: "For the purposes of Paragraph 4(a)(iii) [the finding of any of the circumstances] shall be evidence of the registration [...] of a domain name in bad faith":

(i) circumstances indicating that the respondent has registered or 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 the complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or

(ii) the respondent 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 respondent has engaged in a pattern of such conduct; or

(iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its 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 respondent's website or location or of a product or service on the respondent's website or location.

The Complainant's proof in this case focuses the Panel's attention on the fourth factor. As there is no proof that would support the other factors, the Panel will not address them. The Complainant contends that the Respondent has targeted the Complainant's mark for the purpose of taking advantage of its goodwill and reputation to attract Internet users to its website. This conduct "creat[es] a likelihood of confusion [...] as to the source, sponsorship, affiliation, or endorsement of [its] website". Here, the disputed domain name resolves to an advertising page of a Lithuanian hosting company. Such use is inconsistent with lawful registration in that it has the potential of misleading Internet users into believing that the website may be associated with the Complainant. See Justice for Children v. R neetso / Robert W. O'Steen, WIPO Case No. D2004-0175 (holding that "harm results from the confusion caused by the initial attraction to the site by means of borrowing complainant's mark. And that is exactly the harm the Policy was adopted to address.").

The Complainant adds one further contention relating to MX servers. It states that “MX servers are configured which suggests that it may be actively used for email purposes. It cites for this proposition 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.”). As to this contention, however, it is unnecessary to consider it since it is based on speculation rather than evidence.

In the absence of a respondent to explain and justify its registration and use of a domain name corresponding to a famous or well-known mark, a panel is compelled to examine the limited record for any exonerative evidence of good faith. Here, the Panel finds none. The Respondent has appropriated a well-known mark to serve an infringing purpose. See Royal Bank of Canada - Banque

Royale Du Canada v. Registration Private, Domains By Proxy, LLC / Randy Cass, D2019-2803 (WIPO February 23, 2020) (<investease.com>), the Panel noted: "It is clear that where the facts of the case establish that the respondent's intent in registering or acquiring a domain name was to unfairly capitalize on the complainant's [...] trademark, panels have been prepared to find the respondent acted in bad faith."

The evidence here is such that the only inference that can be drawn from the use of a virtually identical disputed domain name that is pointed to the Host's website is to mislead consumers in some manner. It cannot be determined on this record what benefit there is to the Respondent other than holding the disputed domain name is not material. What is material is that the Respondent has registered and is using the disputed domain name adversely to the Complainant's statutory rights and giving consumers a clear impression that the disputed domain name will lead to the Complainant-sponsored website. As the disputed domain name could not conceivably be used without infringing on the Complainant's rights its registration was also in bad faith. See Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Claim No. D2000-0003. The Panel in Singapore Airlines Ltd. v. European Travel Network, WIPO Claim No. D2000-0641 held that "[t]he registration of domain names obviously relating to the Complainant is a major pointer to the Respondent's bad faith and desire to 'cash in' on the Complainant's reputation.").

For these reasons, the Panel finds that the Respondent is using the disputed domain name in bad faith.

As the Complainant has demonstrated that the Respondent registered and is using the disputed domain name in bad faith, it has satisfied Paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **bollorecanada.com**: Transferred

PANELLISTS

Name	**Gerald Levine Ph.D, Esq.**

DATE OF PANEL DECISION 2025-05-26

Publish the Decision