

Decision for dispute CAC-UDRP-104371

Case number	CAC-UDRP-104371
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Time of filing	2022-02-23 08:52:30
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Domain names	bollore.com
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Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
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Complainant

Organization	BOLLORE SE
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Complainant representative

Organization	NAMESHIELD S.A.S.
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Respondent

Name	simon cowell
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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 registered owner several trademarks including the term "BOLLORE", such as international trademark registration "Bolloré" (fig.) no. 704697 registered on 11 December 1998 for goods and services in classes 16, 17, 34, 35, 36, 38, 39 designating a large number of countries (duly renewed).

FACTUAL BACKGROUND

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

1. The Complainant is a French company established in 1822 and active in the following business lines: Transportation and Logistics, Communication and Media, Electricity Storage and solutions.
2. The disputed domain name was registered on 7 February 2022.
3. According to the undisputed evidence provided by the Complainant, the disputed domain name resolved to a pay-per-click page. Additionally, the Complainant undisputedly contends that disputed domain name has been used in a phishing scheme.

PARTIES CONTENTIONS

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).

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

1.

The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark BOLLORÉ, paragraph 4(a)(i) of the Policy.

The verbal element of the Complainant's registered trademark BOLLORÉ is almost identically included in the disputed domain name. The only difference from a verbal element is that one "l" is substituted by an "i" and the accent on the "e" omitted.

It is acknowledged that a domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element (see Section 1.9 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, "WIPO Jurisprudential Overview 3.0"). The Panel joins the Complainant's view that the substitution of similar-appearing characters (in the present case "l" and "i") is an example of such a typo. This omission of the accent on the "e" is due to technical reasons.

2.

In the absence of any Response, or any other information from the Respondent indicating the contrary, the Panel further holds that the Complainant successfully presented its prima facie case and that the Respondent has no rights or legitimate interests in respect of the disputed domain name pursuant to paragraph 4(a)(ii) of the Policy.

In particular, the Panel notes that there is no evidence in the record showing could lead the Panel to conclude that the Respondent might be commonly known by the disputed domain name in the sense of paragraph 4(c)(ii) of the Policy. In addition, it results from the Complainant's uncontested evidence that the Respondent has no connection or affiliation with the Complainant who has not granted the Respondent any license or consent, express or implied, to use the Complainant's trademark in domain names or in any other manner. Furthermore, use of the disputed domain name for webpages with commercial content (PPC links) excludes any non-commercial use in the sense of paragraph 4(c)(iii) of the Policy from the outset. Finally, said use for commercial web content does - in the Panel's view - not represent a bona fide offering (pursuant to paragraph 4(c)(i) of the Policy). This use rather capitalizes on the reputation and goodwill of the Complainant's BOLLORÉ marks.

3.

Finally, the Panel finds that the disputed domain name has been registered and is being used in bad faith according to

paragraph 4(a)(iii) of the Policy.

It is the view of this Panel that the Respondent has registered and is using the disputed domain name, which almost identically includes the Complainant's trademark BOLLORÉ in order to intentionally attempt to attract, for commercial gain, Internet users to his web site, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of his web site (par. 4(b)(iv) of the Policy).

Additionally, it is undisputed that the domain name has been used for sending phishing emails. Panels have held that the use of a domain name for such phishing purposes may constitute bad faith (see Section 3.4 of WIPO Jurisprudential Overview 3.0). Finally, the Panel also considered the following factors as supporting these findings of bad faith registration and use:

- (i) the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good faith use,
- (ii) the Respondent hiding his identity behind a privacy shield.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BOLIORE.COM**: Transferred

PANELLISTS

Name	Dr. Tobias Malte Müller
DATE OF PANEL DECISION	2022-03-23
Publish the Decision	