

Decision for dispute CAC-UDRP-104261

Case number	CAC-UDRP-104261
Time of filing	2022-01-07 08:56:10
Domain names	bollore-logistics.com

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	Malcolm Perry
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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 owns trade mark registrations for, or that incorporate, "BOLLORE LOGISTICS" in several countries, including international trade mark registration n° 1025892, registered on 31 July 2009, and international trade mark registration n° 1302823, registered on 27 January 2016.

The disputed domain name was registered on 30 December 2021.

FACTUAL BACKGROUND

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

The Complainant is a publicly listed company based in France and is one of the 500 largest companies in the world. The Complainant's Group has 84,000 employees world-wide with the turnover that equals to 24,843 million euros, operating income in the amount of 1,259 million euros and the shareholders' equity in the amount of 25,942 million euros based on the results in 2019. Its subsidiary BOLLORE LOGISTICS is one of the 10 leading worldwide transport and logistics companies, with a presence on five continents and 600 offices in 109 countries and more than 20,950 employees. The Complainant owns and

communicates on Internet through various domain names, such as <bollore-logistics.com> registered since 20 January 2009.

The Respondent is based in the United States. The disputed domain name re-directs to a parking page with commercial links.

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

The Complainant has demonstrated that it owns registered trade mark rights for its BOLLORE LOGISTICS mark. The Panel finds that this word mark is a dominant element of the combined word and device mark registered as international registration 130823 which is designated in numerous countries, including in the United States where the Respondent is based.

The Complainant contends that the disputed domain name is confusingly similar to the dominant word mark element BOLLORE LOGISTICS and that the addition of a hyphen and the addition of the letter “E” is not sufficient to avoid confusing similarity and that this amounts to a case of typosquatting. The Panel agrees with the Complainant and finds that the disputed domain name is confusingly similar to the Complainant's BOLLORE LOGISTICS word mark.

The Complainant has asserted that the Respondent is not known as the disputed domain name and that it is neither affiliated with nor authorised by the Complainant in any way. The Complainant has contended that the Respondent has no rights or legitimate interests in respect of the disputed domain name and that it does not carry out any activity for, or have any business with, the Respondent. The Complainant claims that the disputed domain name is a typosquatted version of its word mark BOLLORE LOGISTICS and that the disputed domain name points to parking page with commercial links. This says the Complainant does not amount to a bona fide offering of goods or services or to a legitimate non-commercial or fair use.

The Panel finds that the Complainant has made out a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name. As the Respondent has not rebutted the Complainant's case the Panel finds for this reason and as set out below in relation to bad faith, that the Complainant has successfully made out its case that the Respondent has no rights or legitimate interests in the disputed domain name.

The Complainant asserts that the BOLLORE LOGISTICS mark is very well reputed as has been found already by previous panels (see for example CAC Case No. 102031, BOLLORE v. Donald Shillam CAC Case No. 101500, BOLLORE SA v. JESSICA SAXTON) and that considering the distinctiveness of the Complainant's trade mark the Respondent has registered the disputed domain name with knowledge of the Complainant's mark and business. The Panel notes that the disputed domain

name was registered on 30 December 2021, many years after the date of the Complainant's trade mark registrations and after it registered its own domain name <bollore-logistics.com> from which it operates one of its websites. In view of the near identity of the disputed domain name to the Complainant's domain name and to its BOLLORE LOGISTICS word mark and the apparent degree of reputation that attaches to the mark in many countries, as well as its very high level of distinctiveness, the Panel finds that the Respondent must have been aware of the Complainant's word mark when it registered the disputed domain name and that it did so with knowledge.

The Panel agrees with the Complainant that the disputed domain name is a misspelling of the Complainant's BOLLORE LOGISTICS word mark and appears to have been intentionally designed to be confusingly similar with the Complainant's trade mark. This amounts to a typosquatting of the Complainant's mark which in and of itself is evidence of bad faith.

In addition, the Complainant asserts that as the disputed domain name redirects to a parking page with commercial links, this fulfills the requirements of paragraph 4(b)(iv) of the Policy. Under paragraph 4(b)(iv) of the Policy there is evidence of registration and use of the disputed domain name in bad faith where a Respondent has used the disputed domain name to intentionally attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trade marks as to the source, sponsorship, affiliation or endorsement of the website. That is exactly what the Respondent has done in this case in circumstances that the disputed domain name resolves to a parking page with sponsored commercial links from which it is very likely to earn income. The Respondent's use of a privacy service to try to mask its identity only serves to reinforce the Panel's view of its bad faith. As a result, the Panel finds that the disputed domain name was both registered and has been used in bad faith.

This is a clear case of typosquatting, the disputed domain name contains the obvious misspelling of the Complainant's trademark. Past panels have confirmed that the slight spelling variations of the trademark BOLLORE LOGISTICS® do not prevent a disputed domain name from being confusingly similar to the Complainant's trademark. Please see for example:

- CAC Case No. 101849, BOLLORE v. jorge villalva, <bollore-1ogistics.com> ("The disputed domain name consists of the Complainant's BOLLORE LOGISTICS mark, save that the first letter 'L' in the second word has been substituted with the number '1'. There is also the addition of a hyphen between the two words and the '.com' suffix. The hyphen in the middle of the BOLLORE LOGISTICS mark and addition of the '.com' suffix may both be disregarded when it comes to considering whether a domain name is confusingly similar to a trade mark in which the Complainant has rights.");
- CAC Case No. 101732, BOLLORE v. Yankees, <bollore-logistics.com> ("Here the g is replaced with a q in the disputed domain name. The Respondent has not come forward with any explanation and has on the face of it, no rights or interests in the name. This is a case of blatant and overt typosquatting.").

The Complainant states that the disputed domain name <bolloree-logistics.com> is confusingly similar to its well-known and distinctive trademark and the domain name associated. Past panels have confirmed the notoriety of the trademark BOLLORE LOGISTICS® in the following cases:

- CAC Case No. 102031, BOLLORE v. Donald Shillam ("The Panel concludes that the Complainant's BOLLORE LOGISTICS trademark has a significant reputation and is of distinctive character.");
- CAC Case No. 101500, BOLLORE SA v. JESSICA SAXTON ("the Complainant's trademark [BOLLORE LOGISTICS] has a strong reputation and is widely known").

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. See WIPO Case No. D2019-2112, Bollore v. Whols Privacy Protection Foundation / Anderson Paul ("Given the circumstances of the case, including the evidence on record of the use of the Complainant's trademark BOLLORE LOGISTICS, and the distinctive nature of this mark, it is inconceivable to the Panel in the current circumstances that the Respondent registered the disputed domain name without prior knowledge of the Complainant and the Complainant's mark.").

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BOLLOREE-LOGISTICS.COM:** Transferred

PANELLISTS

Name	Alistair Payne
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DATE OF PANEL DECISION	2022-02-08
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Publish the Decision
