

Decision for dispute CAC-UDRP-105501

Case number **CAC-UDRP-105501**

Time of filing **2023-06-07 09:20:37**

Domain names **bollore.com**

Case administrator

Name **Olga Dvořáková (Case admin)**

Complainant

Organization **BOLLORE SE**

Complainant representative

Organization **NAMESHIELD S.A.S.**

Respondent

Organization **Laurence FERLICOT (bollore LLC)**

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", 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 25th, 1997.

FACTUAL BACKGROUND

The BOLLORE group (the Complainant) was founded in 1822 and offers transportation and logistics, communications and electricity storage and systems.

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 controlled by the Bolloré family. The BOLLORE Group has more than 56,000 employees world-wide with the revenue that equals to 20,677 million euros, adjusted 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 name <bollorie.com> was registered on May 30th, 2023 and resolves to a parking page. MX servers are

configured.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS: COMPLAINANT:

A. The domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights

The disputed domain name <bollorie.com> is confusingly similar to the Complainant's trademark BOLLORE® and contains an obvious misspelling of the Complainant's trademark BOLLORE®.

The addition of the letter "l" in the trademark BOLLORE® is not sufficient to exclude the likelihood of confusion. This is a clear case of "typosquatting", i.e. the disputed domain name contains an obvious misspelling of the Complainant's trademark. Previous panels have found that slight spelling variations do not prevent a disputed domain name from being confusingly similar to the complainant's trademark. Please see for instance CAC Case No. 103070, *BOLLORE v. Ryan Stewart* ("The disputed domain name is confusingly similar to the Complainant's Trademark. As the Complainant correctly pointed out, substitution of the letter "o" by the letter "c" in the disputed domain name is not sufficient to exclude the likelihood of confusion with Complainant's Trademark, as they look highly similar from visual perspective. It is an obvious, and in the opinion of the Panel also deliberate misspelling of Complainant's Trademark and thus a clear case of typosquatting.").

Moreover, the Complainant contends that the addition of the generic Top-Level Domain suffix ".COM" does not change the overall impression of the designation as being connected to the trademark BOLLORE®. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and its domain names. Please see WIPO Case No. D2006-0451, *F. Hoffmann-La Roche AG v. Macalve e-dominios S.A.* ("It is also well established that the specific top level of a domain name such as ".com", ".org" or ".net" does not affect the domain name for the purpose of determining whether it is identical or confusingly similar.")

Finally, prior UDRP confirmed the Complaint's rights. Please see:

- CAC Case No. 104590, *BOLLORE SE v. shem gitahi <bolloorre.com>*;
- CAC Case No. 103301, *BOLLORE v. Paul Steve <bollorae.com>*;
- CAC Case No. 103074, *BOLLORE SE v. Doris Coperate <bollore.com>*.

Therefore, the Complainant contends that the disputed domain name <bollorie.com> is confusingly similar to Complainant's trademark BOLLORE®.

B. The Respondent has no rights or legitimate interests in respect of the domain name

According to the WIPO Case No. D2003-0455, *Croatia Airlines d. d. v. Modern Empire Internet Ltd.*, 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 domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a) (ii) of the UDRP.

The Respondent is identified in the Whois database as "bollorie LLC". This Company is unknown on the internet and the postal address doesn't relate to any company.

The Respondent is not affiliated with nor authorized by BOLLORE SE in any way. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant does not carry out any activity for, nor has any business with the Respondent.

Moreover, no licence or authorization has been granted to the Respondent to make any use of the Complainant's trademark BOLLORE®, or apply for registration of the disputed domain name.

The disputed domain name is a typosquatted version of the trademark BOLLORE®. *Typosquatting* is the practice of registering a domain name in an attempt to take advantage of Internet users' typographical errors and can be evidence that a respondent lacks rights and legitimate interests in the domain name. Please see for instance NAF Case No. 1807147, *Bittrex Inc. v. Kathryn Bates* ("The Panel agrees that misspellings, such as the substitution of a letter, do not distinguish the Domain Name from Complainant's BITTREX trade mark pursuant to the Policy.")

Furthermore, the disputed domain name resolves to a parking page. The Respondent has not made any use of disputed domain name since its registration. Past panels have held that the lack of use of a domain name is considered as an important indicator of the absence of legitimate interests by the Respondent. Please see for instance NAF Case No. FA 1773444, *Ashley Furniture Industries, Inc. v. Joannet Macket / JM Consultants* ("The Panel finds that Respondent's lack of content at the disputed domain shows the lack of a bona fide offering of goods or services or a legitimate noncommercial or fair use per Policy ¶¶ 4(c)(i) and (iii).").

Accordingly, the Respondent has no rights or legitimate interests to the disputed domain name <bollorie.com>.

C. The domain name was registered and is being used in bad faith

The Complainant's trademark BOLLORE® is well-known and distinctive. Past panels have confirmed the notoriety of the trademark BOLLORE® in the following cases:

- CAC Case No. 102015, *BOLLORE SA v. mich john* ("the Panel takes note, again, of the distinctiveness of the Complainant's brand and the intention that must be presumed to exist in registering a domain name bearing such confusing similarity with well-known brand name.");
- CAC Case No. 101696, *BOLLORE v. Hubert Dadoun* ("As the Complainant is also one of the largest 500 companies in the world, the Panel accepts the Complainant's contention that their trademark has a strong reputation and is in fact to be considered well-known.").

The misspelling of the trademark BOLLORE® was intentionally designed to be confusingly similar with the Complainant's trademark. Previous UDRP Panels have seen such actions as evidence of bad faith. Please see for instance CAC Case No. 101990, *JCDECAUX SA v. Gemma Purnell <jcdeceux.com>* ("Furthermore, the Panel agrees with the Complainant that the use of the disputed domain name is a typical case of typosquatting which in turn is a strong indicator of registration and use of a domain name in bad faith.").

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

Besides, the disputed domain name resolves to a parking page. The Complainant contends that the 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, or an infringement of the Complainant's rights under trademark law.

Based on this information, previous panels have held that the mere registration of a domain name that is identical or confusingly similar to a well-known or widely-known trademark by an unaffiliated entity may be sufficient to create a presumption of bad faith (WIPO Summary, version 3.0, sections 3.1.4). In addition, the disputed domain name has not been used. Such a practice, defined in many previous decisions as "passive holding", is considered as a bad faith use.

Finally, MX servers are configured which suggests that the disputed domain name may be actively used for email purposes. Please see 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.").

Consequently, the Complainant concludes that the Respondent has registered and is using the disputed domain name <bollorie.com> in bad faith.

RESPONDENT: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 REASONS FOR THE DECISION

The disputed domain name (registered in 2023) is confusingly similar to the Complainant's mark (registered in 1998), adding only a letter 'i' and the gTLD .com which do not prevent confusing similarity between the disputed domain name and the Complainant's mark which is still recognisable in the disputed domain name. The omission of the accent in the Complainant's mark which cannot be rendered in a domain name due to technical constraints does not prevent this confusing similarity.

The Respondent has not been authorised by the Complainant to use a sign confusingly similar to the Complainant's mark and has not been authorised by the Complainant.

The disputed domain name has not been used and so there has been no bona fide offering of goods or services or legitimate non commercial fair use.

The Domain Name appears to be a typosquatting registration differing from the complainant's mark only by one letter which is an indication of a lack of rights or legitimate interests.

The Respondent has not answered the Complaint or rebutted the prima facie case evidenced by the Complainant herein.

Typosquatting per se indicates bad faith and knowledge by the Respondent of the Complainant and its rights.

The Respondent has given false name and address details to the Whois database which is also an indication of bad faith.

Passive holding of a domain name containing a sign confusing similar to a Complainant's mark with a reputation is commonly held to be bad faith per se and is more likely than not in this case.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **bollorie.com**: Transferred

PANELLISTS

Name	Dawn Osborne
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DATE OF PANEL DECISION 2023-06-29

Publish the Decision