

ADMINISTRATIVE PANEL DECISION

Bollore SE v. Name Redacted

Case No. DCO2022-0056

1. The Parties

The Complainant is Bollore SE, France, represented by Nameshield, France.

The Respondent is Name Redacted¹.

2. The Domain Name and Registrar

The disputed domain name <bollore.com.co> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 27, 2022. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 28, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules").

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on August 2, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 22, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 23, 2022.

¹ The Respondent appears to have used the name of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted the Respondent's name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

The Center appointed Daniel Peña as the sole panelist in this matter on August 30, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant was founded in 1822. The Complainant holds positions in all its activities around three business lines: Transportation and Logistics, Communication and Media, Electricity Storage and solutions.

The Complainant is the owner of several trademarks including the term BOLLORE, such as the international trademark registration BOLLORE No. 704697, registered on December 11, 1998.

The disputed domain name <bollore.com.co> was registered on July 25, 2022, and according to the information submitted with the Complaint, resolves to an inactive website.

5. Parties' Contentions

A. Complainant

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.

The Complainant states that the disputed domain name <bollore.com.co> is identical to its trademark BOLLORE. The disputed domain name includes it in its entirety.

The Complainant contends that addition of the country code top-level domain ("ccTLD") suffix ".com.co" is not sufficient to escape the finding that the disputed domain name is identical to the Complainant's trademark and does not change the overall impression of the designation as being connected to its trademark.

The Complainant asserts that the Respondent is not identified in the WHOIS database as the disputed domain name.

The Complainant contends that the Respondent is not affiliated with nor authorized by the Complainant in any way.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and he is not related in any way to its business.

The Complainant does not carry out any activity for, nor has any business with the Respondent.

Neither license nor 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 by the Complainant.

The Complainant contends that the Respondent did not make any use of disputed domain name since its registration, and it confirms that the Respondent has no demonstrable plan to use the disputed domain name.

The disputed domain name is identical to the Complainant's well-known and distinctive trademark BOLLORE. Given the distinctiveness of the Complainant's trademark and reputation, the Complainant contends that it is inconceivable that the Respondent could have registered the disputed domain name without actual knowledge of the Complainant's rights in the trademark BOLLORE.

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, 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 the Complainant's trademark as to the source, sponsorship, affiliation or endorsement of the Respondent's website.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

Considering these requirements, the Panel rules as follows:

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights. The Complainant has provided evidence of its rights in the trademark BOLLORE on the basis of its multiple trademark registrations. A trademark registration provides a clear indication that the rights in the trademark belong to the Complainant (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.2.1).

It has also been established by prior UDRP panels that incorporating a trademark in its entirety into a domain name can be sufficient to establish that the domain name is confusingly similar to a registered trademark. Numerous UDRP panels have recognised that the incorporation of a trademark in its entirety is sufficient to establish that a domain name is identical or confusingly similar to the Complainant's registered mark. Such findings were confirmed, for example, within the case *Quixtar Investments Inc. v. Dennis Hoffman*, WIPO Case No. [D2000-0253](#).

The Respondent's incorporation of the Complainant's trademark in full in the disputed domain name is evidence that the disputed domain name is identical to the Complainant's marks.

Accordingly, the Panel finds that the disputed domain name is identical to the trademark in which the Complainant has rights, meaning that the Complainant has satisfied the requirement under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

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 (see section 2.1 of the [WIPO Overview 3.0](#)).

The Panel notes that the Respondent has not filed any response and thus did not reply to the Complainant’s assertions, nor brought any information or evidence for demonstrating any potential rights or legitimate interests.

The Complainant has made a *prima facie* showing that the Respondent does not have any rights or legitimate interests in the disputed domain name, particularly by asserting that the Respondent is not affiliated with it in any way and that it never authorized the Respondent to use its trademark as part of the disputed domain name.

The Complainant further contends that the Respondent is not known under the disputed domain name. Also, the Panel finds that the Respondent is not making any *bona fide* offering, or legitimate noncommercial or fair use, in this case.

Accordingly, the Panel finds that the Complainant satisfied the requirements of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy stipulates that any of the following circumstances, *inter alia*, shall be considered as evidence of the registration and use of a domain name in bad faith:

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

(ii) circumstances indicating that the respondent 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 page 5 respondent has engaged in a pattern of such conduct; or

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

(iv) circumstances indicating that the respondent is using the domain name to intentionally attempt 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 its website or location.

With regard to the bad faith at the time of registration, the Panel notes that “bollore” is not a common or descriptive term, but a renowned trademark in and to which the Complainant has demonstrated has rights.

The disputed domain name reproduces, without any authorization or approval, the Complainant’s registered trademarks. Moreover, the disputed domain name is inherently misleading as it reproduces the Complainant’s trademark BOLLLORE.

In addition, owing to the substantial commercial and financial presence, it is implausible that the Respondent was not aware of the existence of the Complainant's trademarks when registering a domain name that is identical to the Complainant's trademark.

Therefore, it is more likely than not that the Respondent, when registering the disputed domain name, had knowledge of the Complainant's earlier rights to the BOLLLORE trademark.

The bad faith registration and use of the disputed domain name is also affirmed by the fact that the Respondent has not denied, or even responded to, the assertions of bad faith made by the Complainant in this proceeding.

Furthermore, the Panel finds that the passive holding of the disputed domain name in the circumstances of the case does not prevent a finding of bad faith registration and use. On the contrary, this Panel agrees with the Complainant's assertion that in the case of domain names containing well-known earlier marks, passive holding can constitute bad faith.

Here the Panel finds that the Respondent's passive holding of the disputed domain name does not prevent a finding of bad faith (see section 3.3 of the [WIPO Overview 3.0](#)). In the circumstances, the Panel finds that the passive holding of the disputed domain name disrupts the Complainant's business.

Accordingly, the Panel finds, based on the evidence presented, that the Respondent registered and is using the disputed domain name in bad faith. Therefore, the Complainant has satisfied paragraph 4(a)(iii) of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name, <bolllore.com.co> be transferred to the Complainant.

/Daniel Peña/

Daniel Peña

Sole Panelist

Date: September 13, 2022