

DECISION OF THE THIRD-PARTY DECIDER

BOLLORE SE / SUN QIFENG

Case no. 444103: bollore.be

1. The Parties

1.1. Complainant: BOLLORE SE
Odet
29500 Ergue Gaberic
France

Represented by:

Mr. Laurent Becker
Attorney at law – Nameshield
79 Rue des Arènes
49100 Angers
France

Hereafter referred to as “the Complainant”

1.2. Domain name holder:

Mr. SUN QIFENG
Wuzhou Longwan, Building 20 Area B, Room 701
Huaiyin District
223300 Huai’An Jiangsu
China

Hereafter referred to as “the Respondent”

2. Domain name

Domain name: “**bollore.be**”
Registered on: 24 June 2020

Hereafter referred to as “the Domain Name”.

3. Procedure

On 10 July 2020, the Complainant filed a Complaint concerning the Domain Name with Cepani, the Belgian Centre for Arbitration and Mediation, in accordance with the Cepani Rules for Domain Name Dispute Resolution (hereafter referred to as the "Rules") and the Dispute Resolution Policy of DNS Belgium, incorporated in its General terms and conditions for .be domain name registration (hereafter referred to as the "Policy").

On 10 August 2020, Cepani appointed the undersigned, Mr. Renaud Dupont, as a Third Party Decider (hereafter referred to as the "Third-Party Decider") to settle the dispute involving the Domain Name.

The deliberations were closed on 17 August 2020.

The Respondent did not file a response to the Complaint.

In accordance with article 6.4. of the Rules this decision is based solely on the Complaint including the Complainant's exhibits.

4. Factual Background information

The Complainant is part of the BOLLORE group, which was founded in 1822. The Complaint submits 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 Media, Electricity Storage and solutions (see www.bolllore.com).

The Complainant is the owner of several "BOLLORE" trademarks and also holds several domain names including the "BOLLORE" trademarks, the main one being "bolllore.com".

The Domain Name "bolllore.be" was registered on 24 June 2020. According to the Complainant, the Domain Name redirects to the domain name sales platform "www.dan.com".

5. Position of the parties

5.1. Position of the Complainant

The Complainant requests the transfer of the Domain Name and submits that the three cumulative conditions for such transfer are met: (i) the Complainant has various prior BOLLORE trademarks (ii) the Respondent has no rights or legitimate interests in the Domain Name and (iii) the Domain Name was registered in bad faith as follows from the factual background information given above.

5.2. Position of the Domain name holder

The Domain name holder did not file any response or observations.

6. Discussion and findings

According to Article 16.1 of the Rules, the Third-Party Decider shall rule on Domain Name disputes in accordance with the Policy and the Rules.

According to Article 10, b) 1) of the Policy, the Complainant must provide evidence of the following:

- i) *"the registrant's domain name is identical or confusingly similar to a trademark, a trade name, a registered name or a company name, a geographical designation, a name of origin, a designation of source, a personal name or name of a geographical entity in which the complainant has rights; and*
- ii) *the registrant has no rights or legitimate interests in the domain name; and*
- iii) *the registrant's domain name has been registered or is being used in bad faith."*

6.1. The Domain Name is identical or confusingly similar to trademarks in which the Complainant has rights

The Complainant has established the existence of several BOLLORE trademarks in which it has rights.

Moreover, the trade name of the Complainant is "BOLLORE".

It is obvious that the Respondent's Domain Name is identical (or at least confusingly similar) to the BOLLORE trademarks (and the BOLLORE trade name) of the Complainant. The relevant part of the Domain Name is "bollore" as the ".be" extension shall not be taken into account, pursuant to the well-established case law of CEPĂNI.

The Respondent does not dispute this.

As a consequence, the first condition of article 10, b) 1) of the Policy is fulfilled.

6.2. The Domain name holder has no right or legitimate interests in the Domain Name

According to article 10, b) 3 of the Policy, the Domain Name holder's rights or legitimate interest to the Domain Name can be proved by certain circumstances. Article 10 b) 3 of the Policy gives a non-exhaustive list of such circumstances:

- *"prior to any notice of the dispute, the registrant used the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services or made demonstrable preparations for such use; or*
- *the registrant (as an individual, business, or other organisation) has been commonly known by the domain name, even if he has acquired no trademark; or*
- *the registrant is making a legitimate and non-commercial or fair use of the domain name, without intent to misleadingly divert consumers, for commercial gain or to tarnish the trademark, trade name, social name or corporation name, geographical designation, name of origin, designation of source, personal name or name of the geographical entity at issue."*

The Complainant contends that the Respondent is not affiliated with nor authorized by the Complainant in any way. The Complainant asserts 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 BOLLORE trademarks, or apply for registration of the Domain Name by the Complainant.

According to the Complainant, the Domain Name is offered for sale through the platform "Dan.com", which shows the lack of legitimate interest of the Respondent in respect to the domain name. The Respondent fails to use the Domain Name in connection with a bona fide offering of goods or services or a legitimate non-commercial or fair use.

Since the Complainant reasonable asserts that the Respondent does not have any rights or legitimate interests, the burden of proof lies on the Respondent, who has to prove that he actually does have rights or legitimate interests in the Domain Name.

The Respondent did not demonstrate his rights or legitimate interests to the Domain Name by any of the abovementioned elements. The Respondent has indeed not filed any Response and has therefore not provided any explanation or evidence to establish his rights and/or legitimate interests in the Domain Name, so that Complainant's contentions in this respect are not contradicted.

Therefore, it must be concluded that the second condition under article 10, b) 1) ii of the Policy is also fulfilled.

6.3. The Domain name holder's Domain Name has been registered or is being used in bad faith

Bad faith must be reasonably proven and may be proved by any means, including presumptions and circumstances that indicate with a reasonable degree of certainty the existence of bad faith (see e.g. CEPANI cases No. 44171 and 44441).

According to article 10, b) 2) of the Policy, the evidence of such in bad faith registration or use of a Domain Name can *inter alia* be demonstrated by the following circumstances:

- *the Domain Name was registered primarily for the purpose of disrupting the business of a competitor;*
- *the Domain Name was intentionally used to attract, for commercial gain, Internet users to the registrant's web site or other on-line location, by creating confusion with the complainant's trademark, trade name, registered name or company name, geographical designation, name of origin, designation of source, personal name or name of a geographical entity as to the source, sponsorship, affiliation, or endorsement of the registrant's web site or location or of a product or service on his web site or location.*
- *the registrant has registered one or more personal names without the existence of a demonstrable link between the registrant and the registered Domain Names.*

The Complainant submits that it is one of the 500 largest companies in the world. According to the Complainant, the term "BOLLORE" is known only in relation with the Complainant,

especially in Belgium. Therefore, the Complainant contends that the Domain name Holder cannot select and register the disputed domain name for coincidental reasons without knowing the complainant's trademark.

The Respondent has not made any legitimate use of the domain name since its registration. The Complainant argues that the Respondent has registered the domain name corresponding to the Complainant's trademark for the sole purpose of selling it.


Finally, the Complainant submits that the Domain name Holder is known in many UDRP decisions for this pattern of conduct (see WIPO case n° Case No. D2018-2041 Badgley Mischka, LLC v. Sun Qifeng ; WIPO case n° Case No. D2015-2345 Badgley Mischka, LLC v. Sun Qifeng / Sunqifeng ; WIPO case n° Case No. D2010-0633 Aktiebolaget Electrolux AB v. Sun Qifeng).

Without any response from the Respondent, it is sufficiently evidenced that the Domain Name was registered and is being used in bad faith. As a consequence, also the condition stated in Article 10, b) 1 iii of the Policy is fulfilled.

7. Decision

Consequently, pursuant to Article 10(e) of the *Terms and conditions of domain name registrations under the ".be" domain operated by DNS BE*, the Third-Party Decider hereby rules that the Domain Name registration for the "**bollore.be**" Domain Name is to be transferred to the Complainant.

Brussels, 31 August 2020



Renaud Dupont
The Third-party Decider