

## ADMINISTRATIVE PANEL DECISION

Bollore SE v. Name Redacted

Case No. D2024-1610

### 1. The Parties

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

The Respondent is Name Redacted, Australia<sup>1</sup>.

### 2. The Domain Name and Registrar

The disputed domain name <bollorelogistica.com> is registered with Squarespace Domains II LLC (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 17, 2024. On April 17, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 18, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Contact Privacy Inc. Customer) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 18, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on April 19, 2024.

The Center verified that the Complaint together with the amended 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”).

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<sup>1</sup> The Respondent appears to have used the name of a third party - in the present case, the name and official address of the Complainant’s Australian subsidiary - when registering the disputed domain names. 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 names, 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Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case.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](#).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on April 22, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 12, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 14, 2024.

The Center appointed Marilena Comanescu as the sole panelist in this matter on May 17, 2024. 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, established in 1822 in France, is an international company with a strong position in all its activities around three business lines: Transportation and Logistics, Communication, and Electricity Storage and solutions. The Complainant is one of the 500 largest companies in the world, listed on the Paris Stock Exchange, and the majority interest of the Complainant is controlled by the Bolloré family.

Its subsidiary, Bolore Logistics, is one of the five transport and logistics companies, being present in 146 countries worldwide and having 14,000 employees.

The Complainant owns a large portfolio of trademarks for/or including BOLLORE LOGISTICS, such as the following:

- the International trademark registration number 1025892 for BOLLORE LOGISTICS (figurative), registered on July 31, 2009, covering services in Nice classes 35, 36, and 39; and
- the International trademark registration number 1302823 for BOLLORE LOGISTICS (figurative), registered on January 27, 2016, covering goods and services in Nice classes 4, 9, 35, 36, 39, 40 and 42.

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

The disputed domain name was registered on April 14, 2024, and, at the time of filing of the Complaint, it did not resolve to an active website.

According to Annex 8 to the Complaint, email servers have been configured at the disputed domain name and thus, there may be a risk that the Respondent is engaged in a phishing scheme.

According to Annex 9 to the Amended Complaint, the disclosed organization for the Respondent corresponds to the name and official address of the Complainant's Australian subsidiary.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to its well-known and distinctive trademark and its domain name, deleting the final letter "s" of the mark and adding the country code term "au", for Austria, where the Complainant is also present; the Respondent has no rights or legitimate interests in the disputed domain name; the Respondent registered and is using the disputed

domain name in bad faith; the passive holding does not preclude a finding of bad faith; and Mail exchange (“MX”) servers are configured which suggests that the disputed domain name may be actively used for email purposes.

Furthermore, the Respondent registered the disputed domain name using the identity of the Complainant’s subsidiary in order to increase the likelihood of confusion with the Complainant.

## **B. Respondent**

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

## **6. Discussion and Findings**

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- (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 the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

### **A. Identical or Confusingly Similar**

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the complainant’s trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[WIPO Overview 3.0](#)”), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the removal of one letter, the final “s”, and the addition of the term “au”, here, may bear on assessment of the second and third elements, the Panel finds the deletion, or the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.8 and 1.9.

The Panel finds the first element of the Policy has been established.

### **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy provides a non-exhaustive list of circumstances in which the respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although 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 difficult 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 (although the burden of

proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Panel notes that the composition of the disputed domain name itself carries a risk of implied affiliation given that the Complainant's highly distinctive trademark, with a minor alteration, has been combined with the geographical descriptor "au", designating Australia. According to the evidence provided in the Complaint, the Respondent has registered the disputed domain name using false identity and active MX records are associated with the disputed domain name. In the event emails were to be sent using the disputed domain name, it is recalled that panels have held that the use of a domain name for illegal activity (such as potential phishing, impersonation/passing off by using the name and official address of the Complainant's Australian subsidiary for the registration of the disputed domain name or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel finds the second element of the Policy has been established.

### **C. Registered and Used in Bad Faith**

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Respondent registered the disputed domain name in bad faith since the BOLLORE LOGISTICS mark is registered since at least 2009 and it is well-known worldwide, and furthermore the Respondent fraudulently used the name of the Complainant's Australian subsidiary as listed contact information in the Whois.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

At the time of filing the Complaint, the disputed domain name directs towards an inactive page.

Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the international reputation and distinctive character of the Complainant's trademark; the composition of the disputed domain name which includes the Complainant's trademark slightly altered together with the geographic designation "au"; the Respondent's failure to respond to the present proceedings; and the use of privacy shield and false contact details in the Whois, and finds that, in the circumstances of this case, the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Further, panels have held that using privacy or proxy services merely to avoid being notified of a UDRP proceeding filed against it and using a domain name for illegal activity (here, claimed potential phishing activities via the configuration of MX records, but also the seeming impersonation of the Complainant through the very registration details corresponding to to the name and official address of the Complainant's Australian subsidiary used for the disputed domain name) constitute bad faith. [WIPO Overview 3.0](#), sections 3.6 and 3.4.

The Panel finds that the Complainant has established the third element 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 <bollorelogisticau.com> be transferred to the Complainant.

*/Marilena Comanescu/*

**Marilena Comanescu**

Sole Panelist

Date: May 31, 2024