Decision for dispute CAC-UDRP-101366

Case number	CAC-UDRP-101366
Time of filing	2016-12-01 10:33:54
Domain names	Info-boursorama.com, Login-boursorama.com

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	BOURSORAMA S.A.

Complainant representative

Organization	Nameshield (Anne Morin)

Respondent

Name	PATRICK BAT

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 names.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the trademark registration No. 98723359 for BOURSORAMA (word mark), registered on March 13, 1998, in classes 9, 16, 35, 36, 38 and 42.

FACTUAL BACKGROUND

The Complainant is a French company which was founded in 1995 and provides banking and financial services.

The Complainant operates its main web site at the domain name <boursorama.com>, registered on March 1,1998, and is also the owner of the domain name <boursorama.info>, registered on February 20, 2007.

The Disputed domain names <info-boursorama.com> and <login-boursorama.com> were registered on November 18, 2016 and are not pointed to active web sites.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS

THE COMPLAINANT

The Complainant states that the Disputed domain names are confusingly similar to its trademark BOURSORAMA since the trademark is the dominant element in the Disputed domain names and the terms “info” and “login” are merely descriptive.

The Complainant also states that the Respondent has no right or legitimate interest in the Disputed domain names as the Respondent is not known by the Complainant, the Respondent is not affiliated with the Complainant or authorized by it in any way and the Complainant does not carry out any activity for, nor has any business with, the Respondent.

The Complainant highlights that the web sites in relation with the Disputed domain names are currently inactive and contends that the Respondent has registered the disputed domain names in order to prevent the Complainant to register them and thus reflect its trademark BOURSORAMA in the Disputed domain names.

The Complainant also states that the Respondent could not have used the Disputed domain names without infringing the Complainant’s intellectual property rights in the term BOURSORAMA.

The Complainant submits that the Respondent registered the Disputed domain names in bad faith since, given the distinctiveness and reputation of the Complainant's trademark, the Respondent has registered the Disputed domain names with full knowledge of the Complainant's trademark.

As to the non-use of the Disputed domain names by the Respondent, the Complainant points out that the incorporation of a famous mark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use. Therefore, the Complainant concludes that the Respondent registered and is using the Disputed domain names in bad faith.

THE RESPONDENT

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

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names are 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 names (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 names have been registered and are 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

1. The Panel finds that the Disputed domain names are confusingly similar to the Complainant’s trademark BOURSORAMA as they include the trademark in its entirety, with the mere addition of hyphens, the generic terms “login” and “info” and the Top-Level domain “.com” which, as stated in a number of prior decisions rendered under the UDRP, are not sufficient to exclude the likelihood of confusion.

2. The Complainant stated that the Respondent is not affiliated with or authorized by the Complainant in any way. There is no evidence of the fact that the Respondent, which has moreover hidden its identity in the WhoIs records through a privacy service before the filing of the Complaint, might have been commonly known by the Disputed domain names or by a name corresponding to the Disputed domain names. According to the evidence on records, the Respondent has simply passively held the Disputed domain names and has not submitted any evidence showing that it made use of, or demonstrable preparations to use, the Disputed domain names in connection with a bona fide offering of goods or services, or that it has made a legitimate non-commercial or fair use of the Disputed domain names. Therefore, and in the absence of a Response, the Panel finds that the Complainant has made a prima facie case that the Respondent has no rights or legitimate interest in the Disputed domain names.

3. As to the bad faith at the time of the registration, the Panel finds that, in light of the distinctiveness of the Complainant's trademark, with which the Disputed domain names are confusingly similar, and of the prior registration and use of the trademark BOURSORAMA by the Complainant, the Respondent was more likely than not aware of the Complainant's trademark at the time of the registration of the Disputed domain names.

The Disputed domain names have not been used in connection with an active web site, i.e. have been passively held. As established in a number of prior cases, the concept of "bad faith use" in paragraph 4(b) of the Policy includes not only positive action but also passive holding, especially in cases of domain name registrations corresponding to distinctive and well-known trademarks; see i.a. the landmark case Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **INFO-BOURSORAMA.COM**: Transferred
2. **LOGIN-BOURSORAMA.COM**: Transferred

PANELLISTS

Name	**Luca Barbero**

DATE OF PANEL DECISION 2017-01-27

Publish the Decision