Decision for dispute CAC-UDRP-101936

Case number	CAC-UDRP-101936
Time of filing	2018-03-23 09:16:05
Domain names	bourseorama.com

Case administrator

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

Complainant

Organization	BOURSORAMA

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Organization	San & Lam Loans

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings pending or decided related to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant submitted evidence that it is the registered owner of a European Union trademark 001758614 "BOURSORAMA" (word trademark, registered on 19 October 2001), valid for the following classes:

9 Data-processing equipment and computers; computer software; financial information software;

16 Newspapers; periodicals;

35 Advertising, business management; business administration; rental of advertising space on computermedia;

36 Insurance underwriting; financial affairs; monetary affairs; real-estate affairs; financial information services; listing of financial information;

38 Telecommunications; press and information agencies; communication by computer terminals; telecommunications via a network for making financial transactions and all business applications; telecommunications via a data transmission network; transmission of information accessible via computer terminals;

41 Publication of financial information; publication of financial information services; publication of financial information on the Internet;

42 Computer programming and programming by computers; consultancy in the field of computers; computer software design and rental; leasing of access time to a computer data base server centre.

The Complainant also submitted evidence that it is the registered owner of the following French national trademarks:

- 98723359 "BOURSORAMA", word trademark, registered on 13 March 1998, valid for classes 9, 16, 35, 36, 38, and 42;

- 3676762 "BOURSORAMA BANQUE", figurative mark with word elements, registered on 16 September 2009, valid for classes 35, 36, and 38; and

- 3370460 "BOURSORAMA BANQUE", figurative mark with word elements, registered on 13 July 2005, valid for classes 9, 35, 36, 38, and 41.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

Founded in 1995, the Complainant is a pioneer and leader in three core businesses, particularly in Europe: online brokerage, financial information on the Internet, and online banking.

In France, BOURSORAMA is the online banking reference with over 757,000 customers in late 2015. The portal www.boursorama.com is the first national financial and economic information site and online banking platform.

The Complainant is the owner of several trademarks "BOURSORAMA".

The Complainant also owns a number of domain names, consisting of the same wording "BOURSORAMA", including the domain name <boursorama.com>, registered since 1 March 1998.

The disputed domain name <bourseorama.com> was registered on 3 March 2018, well after the registration of the Complainant's trademarks and well after the registration of the Complainant's domain name <boursorama.com>.

The disputed domain name is connected to a parking page with pay per click links in relation with the Complainant’s activity since its registration.

PARTIES CONTENTIONS

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

A. Identical or confusingly similar

The disputed domain name consists of the Complainant's trademark BOURSORAMA, where the letter 'e' has been added after the letter 's' (in other words BOURSEORAMA instead of BOURSORAMA). There is also the addition of the '.com' suffix, which may be disregarded when it comes to considering whether a domain name is confusingly similar to a trademark in which the Complainant has rights.

As a result, given the distinctiveness of the BOURSORAMA trademark and the minor change to the spelling of the disputed domain name, the Panel finds that this is a typical case of typosquatting. The Panel concludes that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights within the meaning of paragraph 4(a)(i) of the Policy.

B. Rights or legitimate interests:

The Respondent did not file an administratively compliant (or any) response. In the circumstances, the Panel finds from the facts put forward that:

The Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name and that he Respondent is not affiliated with or related to the Complainant’s business.

The Complainant further asserts that the Respondent is not authorised or licensed to use the Complainant's trademark BOURSORAMA.

The Respondent does not appear to have any trademark rights or legitimate interests associated with the disputed domain name, nor with the word BOURSORAMA, nor with the word BOURSEORAMA.

The website available through the disputed domain name is a parking page, containing only pay per click advertisements.

There is no evidence that the Respondent is making a legitimate non-commercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademarks at issue.

On the balance of probabilities, and in the absence of any evidence to the contrary or any administratively compliant response being put forward by the Respondent, the Panel finds that the Respondent does not have any rights or legitimate interests in the disputed domain name within the meaning of paragraph 4(a)(ii) of the Policy.

C. Bad faith registration and use:

The Panel notes that the BOURSORAMA trademarks in which the Complainant has rights predate the registration of the disputed domain name.

The Complainant asserts that its trademarks BOURSORAMA are distinctive and well-known around the world.

The disputed domain name is a so-called “parked domain”, containing pay-per-click advertisements. Some of these advertisements seem to link to competitors of the Complainant (for instance, "trade action", "bourse analyser", "bourse france", "bourse live", etc.).

The Complainant submitted evidence of a cease and desist e-mail of 17 March 2018, sent to the e-mail address "zuluflights@gmail.com". The Complainant furthermore submitted evidence of two reply e-mails of 17 March 2018 and 19 March 2018, sent via the e-mail address "zuluflights@gmail.com", whereby the disputed domain name was offered for transfer for a fee of 850 USD. However, given the fact that the Whois information of the disputed domain name only mentions the e-mail address "veinpig@gmail.com" as the e-mail address of the Registrant (and not the e-mail address "zuluflights@gmail.com"), the Panel is unable to decide whether or not the offer of transfer of the domain name for 850 USD was indeed sent by the Respondent (or in name of the Respondent).

Notwithstanding the above, the Panel finds that there is sufficient evidence to conclude that the disputed domain name was registered and used in bad faith. In the absence of any evidence to the contrary (or any administratively compliant response) being put forward by the Respondent, the Panel believes from the facts in this case that the Respondent had the BOURSORAMA trademarks of the Complainant in mind when registering and subsequently using the disputed domain name. The Panel believes that this is a typical case of typosquatting whereby the Respondent reflected a registered trademark in a domain name, while only adding one letter ('e'), and whereby the Respondent allowed sponsored links to be published on its website that compete with the business of the Complainant.

The Respondent uses the disputed domain name for intentionally attempting to attract, for commercial gain, internet users to its own website, by creating a likelihood of confusion with the Complainant’s trademarks as to the source, sponsorship, affiliation or endorsement of the site of the Respondent (paragraph 4 (b) (iv) of the Policy). The Respondent is deliberately trading off the goodwill of the Complainant, by attracting internet users and diverting internet traffic intended for the Complainant to the Respondent’s website for purposes of commercial gain (sponsored links, etc.).

In light of these facts, it is highly unlikely that the Respondent would not have been aware of the unlawful character of the disputed domain name at the time of its registration and use.

For all of the reasons set out above, the Panel determines that the disputed domain name was registered and is being used in bad faith within the meaning of paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BOURSEORAMA.COM**:

PANELLISTS

Name	**Bart Van Besien**

DATE OF PANEL DECISION 2018-05-03

Publish the Decision