Decision for dispute CAC-UDRP-102017

Case number	CAC-UDRP-102017
Time of filing	2018-05-25 13:13:41
Domain names	boursoramafinances.com

Case administrator

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

Complainant

Organization	BOURSORAMA S.A.

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Name	Morval Robert

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

According to the evidence submitted by Complainant, Complainant is the owner of the European Union trademark BOURSORAMA, with number 001758614 and a registration date of 19 October 2001.

FACTUAL BACKGROUND

FACTS ASSERTED BY COMPLAINANT AND NOT CONTESTED BY RESPONDENT:

According to the information provided, Complainant is a financial services company, including online brokerage, financial information on the Internet and online banking.

The disputed domain name was registered on 15 May 2018.

The trademark registration of Complainant has been issued prior to the registration of the disputed domain name.

According to Complainant the disputed domain name is confusingly similar to Complainant’s trademark as it contains the trademark BOUSORAMA in its entirety.

According to Complainant, Respondent has no rights or legitimate interest in the disputed domain name. Respondent has neither been authorized by Complainant to register the disputed domain name, nor has Respondent acquired a legitimate right to use the BOUSORAMA trademark by any written agreement with Complainant. In addition, Complainant submits that the disputed domain name points to a website entitled “Bousorama Finances, Financements des particuliers” (which means “Boursorama Finances, Financing of individuals”), which displays Complainant’s logo and trademark BOURSORAMA. According to Complainant Respondent offers competing services to those provided by Complainant. Complainant also asserts that the disputed domain name resolves to a website in which Respondent is attempting to phish for Internet users’ information by presenting itself as an affiliate of Complainant. This is not a bona fide offering of goods or services nor a legitimate non-commercial or fair use.

According to Complainant the disputed domain name is registered and is being used in bad faith. Complainant submits that given the distinctiveness of Complainant's trademark and reputation and the facts that the website displays Complainant’s logo and trademark Respondent has registered the disputed domain name with full knowledge of Complainant's trademark. According to Complainant, Respondent uses the disputed domain name to divert Internet users searching for Complainant’s website to Respondent’s competing website, and to create a likelihood of confusion with Complainant’s mark for Respondent’s commercial gain by offering competing services and featuring Complainant’s BOURSORAMA trademark and logo on its website. Complainant submits that this is evidence of bad faith.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

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

Complainant has, to the satisfaction of the Panel, shown 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

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

In the opinion of the Panel the disputed domain name is confusingly similar to Complainant's trademark. Many UDRP decisions have found that a disputed domain name is confusingly similar to a complainant’s trademark where the disputed domain name incorporates the complainant’s trademark or the principal part thereof in its entirety. The top-level domain “com” and the addition of the descriptive term “finances” in the disputed domain name may be disregarded.

In the opinion of the Panel Complainant has made a prima facie case that Respondent lacks rights or legitimate interest in the disputed domain name. Complainant has not licensed or otherwise permitted Respondent to use its trademark or to register the disputed domain name incorporating its mark. Respondent is not 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 trademark of Complainant. Respondent is not commonly known by the disputed domain name nor has it acquired trademark rights. Complainant has no relationship with Respondent. In particular the Panel takes into account the undisputed

submission of Complainant, supported by evidence, that the disputed domain name resolves to a website, which displays Complainant's logo and trademark BOURSORAMA in its entirety and which offers competing services to those provided by Complainant. It also appears that this website is used for fraudulent phishing purposes.

Respondent did not submit any response.

Under these circumstances, the Panel finds that Respondent has no rights or legitimate interests in the disputed domain name.

The Panel finds that the disputed domain name has been registered and is being used in bad faith. The trademark of Complainant has been existing for a long time and is well-known. Respondent knew or should have known that the disputed domain name included Complainant's trademark. The Panel also notes the fraudulent use of the disputed domain name as mentioned above.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BOURSORAMAFINANCES.COM**: Transferred

PANELLISTS

Name	**Dinant T.L. Oosterbaan**

DATE OF PANEL DECISION 2018-06-29

Publish the Decision