Decision for dispute CAC-UDRP-102082

Case number	CAC-UDRP-102082
Time of filing	2018-07-10 09:51:02
Domain names	redirect-bourso.tech, redirect-bourso.space, redirect-bourso.site, redirect-bourso.online

Case administrator

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

Complainant

Organization	BOURSORAMA S.A.

Complainant representative

Organization	Nameshield (Daria Baskova)

Respondent

Organization	coupe

OTHER LEGAL PROCEEDINGS

The Panel, performing its own searches, learned that the disputed domain names have all been suspended with Forum decision n. FA1807001794828 of July 17th, 2018 (www.adrforum.com).

IDENTIFICATION OF RIGHTS

The European Community trademark BOURSORAMA® n°001758614 registered since October 19th, 2001; and

The European Community trademark BOURSO® n° 3009973 applied for registration and registered since February 22nd, 2000.

The trademark BOURSORAMA® is registered in the TradeMark ClearingHouse (TMCH) since August 27th, 2014 and the trademark BOURSO® is also registered in the TMCH since September 8th, 2014.

The Complainant also owns a number of domain names including the same distinctive wording as the trademark BOURSORAMA®, such as the domain name <boursorama.com>, registered since March 1st, 1998, the domain name <clients-boursorama.com>, registered since March 23rd, 2017 and as the trademark BOURSO®, such as <bourso.com> registered since January 11th, 2000 or <boursobank.com> registered since November 23rd, 2005.

FACTUAL BACKGROUND

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

- Forum Case No. 1783500, UBS AG v. Jouet Daniels (“Complainant next argues Respondent’s <ubs-bank.org> domain name is confusingly similar to the UBS mark, as the name incorporates the mark in its entirety, and includes the word “bank” and the “.org” gTLD. Such changes are not sufficient to distinguish a domain name from an incorporated mark in a Policy 4(a)(i) analysis, according to the UDRP practice… Addition of hyphens does not distinguish a domain name from a mark per paragraph 4(a)(i) of the Policy .”);

- Forum Case No. 1730122, Houzz Inc. v. Qeqe Jr / Stars Media (“The addition of a descriptive TLD does not distinguish the disputed domain name from Complainant’s mark.”);

- Forum Case No. FA 1635902, BOURSORAMA S.A. v. Sebastien Martin <boursorama.xyz>;

- CAC Case No. 100995, BOURSORAMA S.A. v. Stephane Arninda <boursoramasecuritycheck.com>;

- According to the WIPO Case No. D2003-0455, Croatia Airlines d .d. v. Modern Empire Internet Ltd., the Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests;

- Forum Case No. 1787495, Wiluna Holdings, LLC v. weiwei li / shijuegongzuoshi (“Specifically, Complainant alleges that Respondent attempts to benefit from the goodwill associated with Complainant’s mark by passing off as Complainant. Use of a domain name to pass off as a complainant may not be considered a bona fide offering of goods and services or a legitimate noncommercial use under Policy 4(c)(i) and (iii).”);

- Forum Case No. 1788585, United States Postal Service v. She had khan (“Use of a domain name to host a pay-per-click webpage may not be considered a bona fide offering of goods and services under Policy 4(i) and (iii)”);

- WIPO Case No. D2016-2605, Boursorama SA v. Ellen Howe, NA (“The Panel concludes that the Respondent was attempting to create an impression of association with the Complainant and its BOURSORAMA trademark at the time of registration and the Domain Name was registered in bad faith”);

- Forum Case No. 1789113, Kendra Scott and Kendra Scott, LLC v. cyl / ah bay / fang bin feng (“Finally, Respondent registered the disputed domain names with actual knowledge of Complainant’s mark: the resolving web pages are nearly identical to Complainant’s legitimate website … actual knowledge of a complainant’s rights in a mark prior to registration may be evidence of bad faith per Policy 4(a)(iii).”).

- Forum Case No. 1218584, Comfortaire Corporation v. Belize Domain WHOIS Service Lt (“Respondent’ use of the <comfortairedirect.com> domain name is also likely to cause confusion among customers searching for Complainant’s products…Thus, the Panel concludes that Respondent’s registration and use of the <comfortairedirect.com> domain name was in bad faith pursuant to Policy 4(b)(iv).”).

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

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), namely:

- the European Community trademark BOURSORAMA® n°001758614 registered since October 19th, 2001; and
- the European Community trademark BOURSO® n° 3009973 applied for registration and registered since February 22nd, 2000.

The trademark BOURSORAMA® is registered in the TradeMark ClearingHouse (TMCH) since August 27th, 2014 and the trademark BOURSO® is also registered in the TMCH since September 8th, 2014.

The Complainant also owns a number of domain names including the same distinctive wording as the trademark BOURSORAMA®, such as the domain name <boursorama.com>, registered since March 1st, 1998, the domain name <clients-boursorama.com>, registered since March 23rd, 2017 and as the trademark BOURSO®, such as <bourso.com> registered since January 11th, 2000 or <boursobank.com> registered since November 23rd, 2005.

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

Complainant provided serious and convincing evidences showing all the UDRP requirements, in particular:

- With regard to confusing similarity of the disputed domain names with its BOURSO EUTM n. 3009973, registered on February 22nd, 2000 (the words "redirect" as well as the relevant gTLD extensions not being able to distantiate or alter the similarity test);

- Lack of rights/legitimate interest by Respondent, who did not file any response;

- Bad faith in registration and use of the disputed domain names: Complaint clearly shows Respondent attempted to link any and all of the disputed domain names with the URL: www.clients.boursorama.particuliers.site, a site developed by Complainant to allow customers to access their accounts at BOUSORAMA, a well known trademark of the French bank Boursorama.

As confirmed by the cited Forum determination of July 2018, and without any rebuttal from Respondent, the Panel agrees this is evidence that Respondent specifically targeted Complainant's mark and business, more than exploiting the (possible) generic meaning of the "bourso" word, which could stand for "bourse" according to a common scheme in French language as for example "resto" for restaurants.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **REDIRECT-BOURSO.TECH**: Transferred
2. **REDIRECT-BOURSO.SPACE**: Transferred

3. **REDIRECT-BOURSO.SITE**: Transferred
4. **REDIRECT-BOURSO.ONLINE**: Transferred

PANELLISTS

Name	**Roberto Manno**

DATE OF PANEL DECISION 2018-08-17

Publish the Decision