Decision for dispute CAC-UDRP-102170

Case number	CAC-UDRP-102170
Time of filing	2018-09-20 10:23:59
Domain names	boursoarma.com

Case administrator

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

Complainant

Organization	Boursorama SA

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Name	johnny legend

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

The reputation of the Complainant's trademarks and domain names is self-evident and proved by:

- Complainant's trademark:
- the European trademark BOURSORAMA® n°001758614 registered since October 19, 2001;

- Complainant's domain name:
<boursorama.com>, registered since March 1, 1998

Furthermore Complainant's trademarks extensively registered around the world.

FACTUAL BACKGROUND

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

Founded in 1995, BOURSORAMA S.A. (the Complainant) grows in Europe with the emergence of e-commerce and the continuous expansion of the range of financial products online.

Pioneer and leader in its three core businesses: online brokerage, online financial information and online banking, BOURSORAMA S.A. based its growth on innovation, commitment and transparency.

In France, BOURSORAMA is the online banking reference with more than 1,500,000 customers. Its website has more than 30 million monthly visits.

The Complainant is the owner of several trademarks BOURSORAMA®, in particular the European trademark BOURSORAMA® n°001758614 registered since October 19, 2001.

The Complainant also owns several domain names including the same distinctive wording BOURSORAMA®, such as the domain name <boursorama.com>, registered since March 1, 1998.

The disputed domain name <boursoarma.com> was registered on September 13, 2018.

The website in relation with the disputed domain name is a blank page displaying the message “Index of”.

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).

This is thus a clear case of "typosquatting“, i.e. the disputed domain name contains an obvious misspelling of the Complainant’s trademark; BOURSOARMA instead of BOURSORAMA.

Previous panels have found that the slight spelling variations does not prevent a disputed domain name from being confusing similar to the complainant’s trademark.

Simple exchange of letters is not a sufficient element to escape the finding that the domain name is confusingly similar to the complainant’s trademarks and domain names.

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).

The Complainant contends that the Respondent is not affiliated with him nor authorized by him in any way to use its trademarks in a domain name or on a website. The Complainant does not carry out any activity for, nor has any business with the Respondent.

Neither licence nor authorization has been granted to the Respondent to make any use of the Complainant’s trademark BOURSORAMA®, or apply for registration of the disputed domain name by the Complainant.

Furthermore, the disputed domain name points to an inactive website since its registration.

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).

Given the distinctiveness of the trademark and the content of the website, it is clear that the Respondent registered the

disputed domain name with knowledge of the Complainant and its trademark.

All these elements lead to the conclusion that the Respondent has intentionally attempted to attract Internet users to the Respondent's website for commercial gain by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of such websites.

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 three essential issues under the paragraph 4(a) of the Policy are whether:

i. the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

ii. the Respondent has no rights or legitimate interests with respect to the disputed domain name; and

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

2. The Panel reviewed carefully all documents provided by the Complainant. The Respondent did not provide the Panel with any documents or statements. The Panel also visited all available websites and public information concerning the disputed domain name, namely the WHOIS databases.

3. The UDRP Rules clearly say in its Article 3 that any person or entity may initiate an administrative proceeding by submitting a complaint in accordance with the Policy and these Rules.

4. The Panel therefore came to the following conclusions:

a) The Complainant has clearly proven that it is a long standing and successful company in the on-line financial services business. It is clear that its trademark and domain name “boursorama” are well-known.

The Complainant states and proves that the disputed domain name is confusingly similar to its trademark and its domain name. Indeed, the trademark is partially incorporated in the disputed domain name.

The disputed domain name is therefore deemed identical or confusingly similar.

b) It has to be stressed that it was proven that there are no fair rights of the Respondent to the disputed domain name. The Respondent is not generally known by the disputed domain name and have not acquired any trademark or service mark rights in the name or mark.

The Panel therefore finds that the Respondent does not have rights or legitimate interest with respect to the disputed domain name.

c) The disputed domain name was registered with an intention to attract customers of another well-known domain name/registered trademark holder. Therefore there cannot be seen any legitimate interest of the Respondent.

It is clear that the Complainant's trademarks and website(s) were used by the Complainant long time before the disputed domain name was registered and used. It is therefore concluded that the disputed domain name was registered with an intention to attract customers of another well-known domain name/registered trademark holder.

The Panel therefore finds that the disputed domain name has been registered and is being used in bad faith.

For the reasons stated above, it is the decision of this Panel that the Complainant has satisfied all three elements of paragraph 4(a) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BOURSOARMA.COM**: Transferred

PANELLISTS

Name	**Dr. Vít Horáček**

DATE OF PANEL DECISION 2018-10-23

Publish the Decision