Decision for dispute CAC-UDRP-102211

Case number	CAC-UDRP-102211
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Domain names	boursorma.com

Case administrator

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

Complainant

Organization	BOURSORAMA

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Name	Olga Pererva

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

The Complainant bases its Complaint on the trademark BOURSORAMA, European registration No. 1758614, filed on 13 July 2000 and registered on 19 October 2001, duly renewed, claiming protection for goods and services in classes 9, 16, 35, 36, 38, 41 and 42.

FACTUAL BACKGROUND

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

The Complainant in these administrative proceedings is Boursorama S.A., a French company operating in the field of online brokerage, financial information and banking. The Complainant operates through its website at www.boursorama.com, which in the late 2017 counted over 30 million monthly visits. In the banking field the Complainant totalizes 1,500 million customers.

The Complainant operates under the trademark BOURSORAMA, the details of which have been reported above and through the domain name <boursorama.com> registered since March 1998.

The disputed domain name was registered on 1 January 2015 and redirects to a parking page containing pay-per-click links.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

The Complainant's contentions are the following:

The Complainant maintains that the disputed domain name is confusingly similar to the Complainant's earlier trademark BOURSORAMA, as it contains an obvious misspelling of this word. The deletion of the second letter “A” of the trademark BOURSORAMA in the disputed domain name is not sufficient to avoid confusing similarity. The term BOURSORAMA is a distinctive term, only known in relation to the Complainant as it appears from the results of a Google search conducted on the keyword “boursorama”. BOUSORAMA has no meaning in any language.

The Complainant further contends that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent is not affiliated with, nor authorized by, the Complainant. The Complainant does not carry out any activity for, or has any business with the Respondent. The Complainant has not granted a license or authorization to use the trademark BOURSORAMA, or to apply for the registration of the disputed domain name to the Respondent. Moreover the disputed domain name consists of a typosquatting of the Complainant’s trademark, which is further evidence of the Respondent’s lack of rights or legitimate interests in the disputed domain name.

The Complainant argues that the disputed domain name has been registered, and is been used in bad faith. Given the distinctiveness of the Complainant’s trademark and reputation, the Complainant maintains that the Respondent has registered the disputed domain name with full knowledge of the Complainant’s trademark. Moreover, by registering a domain name which is a misspelling of the Complainant’s trademark, the Respondent has clearly shown that she intended to create confusion with the Complainant’s trademark. Furthermore, as the disputed domain name leads to a website containing pay-per-click links, the Respondent is clearly attempting to attract Internet users for commercial gain to her website and is therefore acting in bad faith.

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).

The Complainant is the owner of the European trademark BOURSORAMA. The disputed domain name is a misspelling of the Complainant’s trademark, as it consists of the almost identical term BOURSORMA. The only difference between the Complainant’s trademark and the disputed domain name, is that in the latter the second letter “A” of the term “boursorama” has been deleted. Said omission is not sufficient to avoid a close similarity with the Complainant’s trademark considering that this trademark consists of 10 letters, the first seven of which are identical, the eighth has been deleted, and the remaining two are also identical.

Thus, the Panel concludes that the first condition under the Policy is met.

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).

As also confirmed in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), a complainant is required to make out a prima facie case that the respondent lacks rights or legitimate interests. Once such prima facie case is made, the burden of production shifts to the respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such appropriate allegations or evidence, a complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the Policy.

Based on the available evidence, the Respondent does not appear to be known by the disputed domain name. The Respondent is not affiliated with, nor authorized by, the Complainant. The Respondent is not a licensee of the BOURSORAMA trademark, nor was ever authorised to include a misspelling of the Complainant's trademark in a domain name.

The disputed domain name leads to a web page including pay-per-click links. Such use cannot be considered in connection with a bona fide offering of goods or services, nor a legitimate noncommercial or fair use of the disputed domain name.

Therefore, the Panel takes the view that also the second requirement under the Policy has been satisfied.

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).

The Complainant's trademark is highly distinctive and it is not conceivable that the Respondent registered the disputed domain name without having in mind said trademark. Moreover, numerous UDRP Panels have found that typosquatting itself constitutes bad faith (see, amongst others, VMWARE, INC. v. Bola Branky, WIPO Case No. D2016-0073; Halliburton Energy Services, Inc. v. Registration Private, Domains By Proxy, LLC / Name Redacted, WIPO Case No. D2015-2094; Calvin Klein Trademark Trust, Calvin Klein, Inc. v. Moniker Privacy Services, WIPO Case No. D2015-2305).

As far as use in bad faith is concerned, the disputed domain name is used to obtain click-through-revenue from the pay-per-click parking site and such circumstance is a clear indication of bad faith (see, among others, Iflscience Limited v. Domains By Proxy LLC / Dr Chauncey Siemens, WIPO Case No. D2016-0909, and AMADEUS IT GROUP, S.A. v. Contact Privacy Inc. Customer 0151133672, Contact Privacy Inc. Customer 0151133672 / Milen Radumilo, WIPO Case No. D2018-2192).

The Panel therefore concludes that the disputed domain name was registered and has been used to attempt to attract, for commercial gain, Internet users seeking for the Complainant's services to the Respondent's website.

Therefore, the Panel takes the view that also the third and last condition under the Policy is satisfied.

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

The disputed domain name is confusingly similar to the Complainant's trademark as it consists of a slight misspelling of the Complainant's trademark.

The Panel finds that the Complainant has provided prima facie evidence that the Respondent lacks rights and legitimate interests in the disputed domain name. The Complainant never authorised the Respondent to register a domain name practically identical to its trademark. Moreover, the Complainant never licensed, nor had any kind of business relationship with the Respondent. Finally, there is no evidence that the Respondent has been known by the disputed domain name.

The Panel finds that the Respondent registered and is using the disputed domain name in bad faith, as the disputed domain name is a typosquatting of the Complainant's trademark and is used to lead to a parking page containing pay-per-click links.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BOURSORMA.COM**: Transferred

PANELLISTS

Name	Angelica Lodigiani

DATE OF PANEL DECISION 2018-12-09

Publish the Decision