Decision for dispute CAC-UDRP-102408

Case number	CAC-UDRP-102408
Time of filing	2019-03-21 10:58:03
Domain names	boursorama-france.com

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	BOURSORAMA SA

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Name	Li erliu

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

The Complainant, BOURSORAMA, is the owner of the European trademark BOURSORAMA, n°17588614 registered on October 19, 2001 and duly renewed in classes 9, 16, 35, 36, 38, 41 et 42.

Complainant also owns the domain name <boursorama.com> registered on March 1, 1998 and communicates through it (the “Domain Name”).

The disputed domain name <boursorama-france.com> was registered on March 18, 2019.

FACTUAL BACKGROUND

Complainant is a French bank founded in 1995. Complainant is a leader in online brokerage, which provides financial information on the Internet and other online banking services. In France, BOURSORAMA is the online banking reference website with over 1,5 million customers. The portal <boursorama.com> is the first national financial and economic information site and first French online banking platform.

Complainant has proven that it owns rights on the registered European trademark BOURSORAMA n°1758614. Complainant

has also shown that he registered the domain name <boursorama.com> registered on March 1, 1998.

The disputed Domain Name <boursorama-france.com> was registered on March 18th, 2019.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

PARTIES' CONTENTIONS:

COMPLAINANT:

Complainant contends that the Domain Name should be transferred because each of the three elements required in paragraph 4(a) of the Policy has been established.

Firstly, Complainant asserts that the disputed domain name is confusingly similar to its registered trademark BOURSORAMA. Complainant states that the addition of a hyphen and the generic term “FRANCE” is not sufficient to prevent the likelihood of confusion with its trademark BOURSORAMA.

Secondly, Complainant claims that Respondent has no rights or legitimate interests in the disputed domain name and that he does not know Respondent. Complainant asserts that Respondent does not carry out any activity on behalf of Complainant, nor does he have any business association with Respondent. Complainant further claims that no license or authorization has been granted to Respondent to make any use of Complainant’s trademark BOURSORAMA or to apply for registration of thedisputed domain name.

Finally, Complainant alleges that the disputed domain name is registered and used in bad faith. Complainant further argues that the term “BOURSORAMA” has no meaning in any language, except in relation with the Complainant, and all the search engine results for this term are related the Complainant’s website. Thus, Complainant states that the Respondent is aware of the Complainant’s rights prior to registering the disputed domain name, which demonstrates bad faith. Complainant also argues that the Respondent has not demonstrated any activity related to the disputed domain name, and that it is not possible to think of any plausible current or future active use of the domain name by the Respondent that would not be illegitimate. Complainant states that the Respondent has maintained the domain name in order to disrupt Complainant’s business.

RESPONDENT:

Respondent did not reply to Complainant’s contentions and is therefore in default.

RIGHTS

Complainant has demonstrated that he is the owner of the European trademark BOURSORAMA No.1758614 registered on October 19, 2001 and duly renewed in classes 9, 16, 35, 36, 38, 41 and 42.

Complainant has also proved that it owns the domain name <boursorama.com> registered on March 1, 1998.

This trademark predates the registration of the disputed domain name by more than twenty years.

The disputed domain name incorporates Complainant’s trademark BOURSORAMA in its entirety. The Panel notes that Complainant’s registered trademark is clearly recognizable in the disputed domain name, and that the mere addition of a hyphen and the geographic term “France” does not prevent the likelihood of confusion, especially since Complainant’s activity targets France.

Moreover, the addition of a generic Top-Level Domain (gTLD) in a domain name <.com> does not change the overall impression of the designation related to the trademark BOURSORAMA. Therefore, such an element must be disregarded when assessing whether a domain name is identical or confusingly similar to a trademark. (See WIPO Case No. D2006-0451, F. Hoffman-La Roche AG v. Macalve e-dominios S.A).

Consequently, the Panel finds that the disputed domain name is confusingly similar to Complainant's trademarks and that Complainant has met its burden of showing that the disputed domain name is confusingly similar to the marks on which Complainant has valid rights, within the meaning of paragraph 4(a(i) of the Policy.

NO RIGHTS OR LEGITIMATE INTERESTS

It is sufficient that Complainant has established a prima facie case that Respondent lacks legitimate rights or legitimate interests in the disputed domain name in order to shift the burden of proof to Respondent (see e.g. Otokar Otomotiv ve Savunma Sanavi A.S. v. Gbenga Osoba, ADR Case No. 07202).

Complainant asserts that the Respondent is not known the disputed domain name. Moreover, Complainant claims that Respondent has no rights or legitimate interests in the disputed domain name. Complainant further asserts that Respondent does not carry out any activity for Complainant, nor does he have any business with Complainant. Complainant claims that no license or authorization has been granted to Respondent to make any use of Complainant's European trademark BOURSORAMA, or to apply for registration of the disputed domain name <boursorama-france.com>.

Furthermore, Complainant provides a screenshot of the disputed domain name dated from March 19, 2019 that shows that the disputed domain name is inactive. Therefore, the Complainant contends that Respondent did not make any use of disputed domain name since its registration, which confirms that Respondent has no demonstrable plan to use the disputed domain name.

The Panel finds that Complainant has shown a prima face case that the Respondent lacks rights or legitimate interests in the disputed domain name.

For this reason, the burden of proof shifts from Complainant to Respondent, who has not answered the complaint. It should be noted that "Lack of any response is another element against Respondent's legitimate use or interest in the disputed domain name" (See e.g. Loro Piana S.p.A. v. Robert Remy, CAC Case No. 101595).

Complainant has shown to the satisfaction of the Panel that the Respondent has no rights or legitimate interests in the disputed domain name within the meaning of paragraph 4(a(ii) of the Policy.

BAD FAITH

The evidence on record shows that, at the time of the filing of the complaint, the disputed domain name redirected to an inactive website. The Panel notes that the disputed domain name now redirects to a website in Chinese.

Furthermore, Complainant argues that the term BOURSORAMA has no meaning in any language, except in relation with the Complainant and that all the results from search engines for this term are related to the Complainant.

Moreover, Complainant argues that the geographic term "FRANCE" refers directly to the Complainant's country and the Complainant contends that the Respondent choose this term with the Complainant in mind. Thus, the Complainant contends that the Respondent has knowledge of the Complainant's right prior to the registration of the disputed domain name, which is a hallmark of bad faith. Thus, the Complainant contends that the Respondent is using the disputed domain name in bad faith by creating confusion with Complainant's trademark as to the source, sponsorship, affiliation or endorsement of its own website.

In addition, Complainant asserts that by registering and using the domain name <boursorama-france.com>, it seems clear that the Respondent has maintained the domain name in order to disrupt Complainant's business.

Therefore, in view of the above, the Panel finds that Respondent registered the disputed domain name with Complainant's rights in mind and that he did so with the intention of taking advantage of such rights.

Therefore, the Panel finds that the disputed domain name was registered in bad faith.

The Panel concludes that the Complainant has established all three elements required under paragraph 4(a) 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.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BOURSORAMA-FRANCE.COM**: Transferred

PANELLISTS

Name	**Nathalie Dreyfus**

DATE OF PANEL DECISION 2019-05-07

Publish the Decision