Decision for dispute CAC-UDRP-102574

Case number	CAC-UDRP-102574
Time of filing	2019-07-18 09:16:07
Domain names	boursoramabanques.com

Case administrator

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

Complainant

Organization	BOURSORAMA SA

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Name	Arcos Bernard

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the following registered trademarks:

French registered trademarks:

BOURSORAMA BANQUE, combined mark, registered July 13, 2005 under number 3370460 for goods and services in Nice classes 9, 35, 36, 38 and 41.

BOURSORAMA BANQUE, combined mark, registered September 16, 2009 under number 3676762, for goods and services in Nice classes 35, 36 and 38.

BOURSORAMA, word mark, registered March 13, 1998 under number 98723359, for goods and services in Nice classes 9, 16, 35, 36, 38 and 42.

European Union registered trademarks:

BOURSORAMA, word mark, registered October 19, 2001 under number 1758614, for goods and services in Nice classes 9, 16, 35, 36, 38, 41 and 42.

FACTUAL BACKGROUND

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

The Complainant was founded in 1995. It is the owner of the BOURSORAMA BANQUE and BOURSORAMA trademarks which it uses in connection with its three core businesses of online brokerage, delivery of financial information on the Internet and online banking. The Complainant is also the owner of a variety of domain names incorporating these marks, including <boursorama.com>, registered since March 1, 1998, and <boursorama-banque.com>, registered since May 26, 2005.

The disputed domain name is identical or confusingly similar to the Complainant's trademarks. The disputed domain name contains the Complainant's BOURSORAMA trademark in its entirety coupled with the generic French word "banques" and likewise contains the Complainant's BOURSORAMA BANQUE trademark in its entirety, together with the letter "s". The addition of such word and/or letter does not change the overall impression made by the Complainant's said trademarks, nor does it diminish confusing similarity.

The disputed domain name has been registered by the Respondent without rights or legitimate interests. The Respondent is not affiliated with or authorized by the Complainant in any way and has no business with the Complainant. The Respondent has not been granted any license or other authorization by the Complainant to use the Complainant's trademarks or to apply for registration of the disputed domain name. The Respondent has failed to use the disputed domain name in connection with a bona fide offering of goods and services or for a legitimate noncommercial or fair purpose.

The disputed domain name was registered on July 13, 2019 and redirects to the Complainant's own website. Such use may indicate a lack of rights or legitimate interests, according to previous cases under the Policy.

The disputed domain name has been registered and is being used in bad faith. This is demonstrated by incorporation of the Complainant's BOURSORAMA BANQUE trademark in the disputed domain name along with the letter "s" which constitutes "typosquatting", being the creation of a domain name incorporating a trademark with an introduced typographical error or variation in the hope that this confuses Internet users into believing that such domain name is legitimately associated with the trademark concerned.

The Respondent's redirection of the disputed domain name to the Complainant's own website demonstrates that the Respondent has registered the disputed domain name with the knowledge of the Complainant's rights and thus has registered and used it in bad faith. Furthermore, the Respondent has failed to use the disputed domain name in good faith.

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).

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).

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).

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 Complainant has demonstrated that the disputed domain name contains the word elements of Complainant's BOURSORAMA BANQUE combined mark in their entirety, suffixed by the single letter "s". It is a straightforward matter to separate the graphical elements from the word elements of the Complainant's said mark, as is customary under the Policy, for the purpose of such comparison. The Complainant has likewise demonstrated that the disputed domain name contains its BOURSORAMA word trademark in its entirety coupled with the generic French word "banques".

The addition of such letter or word to the Complainant's respective marks does not avoid a finding of confusing similarity under the Policy. Whether the disputed domain name is read as BOURSORAMA BANQUE plus letter "s" or as BOURSORAMA plus the word "banques", each of the Complainant's distinctive trademarks are individually recognizable in the disputed domain name and the additional terms are insufficient to remove the overall impression made upon the public by the presence of such trademarks (see, for example, Sony Kabushiki Kaisha (also trading as Sony Corporation) v. Inja, Kil, WIPO Case No. D2000-1409). The lack of a space in the disputed domain name equally does not distinguish it from the Complainant's BOURSORAMA BANQUE mark as spaces are not permitted in a domain name for technical reasons. The Complainant's marks are the dominant component of the disputed domain name notwithstanding the additional generic elements.

The Complainant has established a prima facie case that the Respondent does not have rights or legitimate interests in the disputed domain name to the Panel's satisfaction by reference to its submissions that the Respondent is neither affiliated to the Complainant, nor authorized or licensed by the Complainant to use its marks, nor had the Complainant's permission to register the disputed domain name. The Panel notes the Respondent's failure to use the disputed domain name in connection with a bona fide offering of goods or services or in connection with a legitimate non-commercial or fair use. The Panel further accepts the Complainant's submission that the Respondent could not claim rights or legitimate interests in the disputed domain name by virtue of the fact that it has redirected the disputed domain name to the Complainant's own website.

The facts and circumstances of the case indicate that the Respondent is, more probably than not, engaged in typosquatting, "a practice premised on the absence of legitimate interest" (Hustler Equipment Ltd. v. To Thi Thanh Tam, CAC Case No. 101126). Such activity cannot vest any rights or legitimate interests in the Respondent.

The Respondent failed to rebut the Complainant's prima facie case in that it did not file any Response. There are no surrounding facts or circumstances tending to show that the Respondent may otherwise have rights or legitimate interests in the disputed domain name. It is therefore reasonable in the circumstances for the Panel to find that that the Respondent has no such rights or legitimate interests therein.

In the Panel's opinion, the Complainant has successfully made out a case of registration and use in bad faith in respect of the disputed domain name. The presence of the Complainant's distinctive trademarks in the disputed domain name and the redirection of same to the Complainant's own website demonstrates to the Panel's satisfaction that the Respondent had knowledge of the Complainant and its marks at the point of registration.

The fact that the Respondent has coupled one of the Complainant's marks to the letter "s" indicates that the Respondent is more likely than not to be engaged in typosquatting. This is a bad faith activity which, by virtue of a domain name's typographical similarity to the trademark concerned, seeks to attract Internet traffic and/or to confuse Internet users into believing that such domain name is controlled by the mark owner, a variation of whose mark is represented therein.

The redirection of the disputed domain name to the Complainant's own website does not constitute use in good faith as it means that the disputed domain name gives the wrongful impression that it is an official domain name of the Complainant, under the Complainant's control, when it is neither of these things. If, for example, the disputed domain name were to be used by the Respondent at any point for the sending of email, the fact that it also redirects to the Complainant's own website would add to an appearance that any such communications originated genuinely from the Complainant.

The Respondent failed to address the Complainant's contentions by way of any Response and did not advance any alternative motivation for the registration and use of the disputed domain name which might have indicated that its actions were in good faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BOURSORAMABANQUES.COM**: Transferred

PANELLISTS

Name	**Andrew Lothian**

DATE OF PANEL DECISION 2019-08-21

Publish the Decision