Decision for dispute CAC-UDRP-102842

Case number	CAC-UDRP-102842
Time of filing	2020-01-02 12:14:01
Domain names	boujrsorama.com

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	BOURSORAMA SA

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Name	hui li

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 several trademarks BOURSORAMA, in particular the European trademark BOURSORAMA n°001758614 registered since October 19th, 2001. The Complainant also owns several domain names including the wording BOURSORAMA, such as the domain name <boursorama.com>, registered since March 1st, 1998.

FACTUAL BACKGROUND

The Complainant was founded in 1995 and 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, Complaintant based its growth on innovation, commitment and transparency.
In France, Complainant is the online banking reference with more than 2,000,000 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 19th, 2001.

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

The disputed domain name <boujrsorama.com> was registered on December 25th, 2019 and is currently inactive.

The Complainant contends that the disputed domain name is confusingly similar to its well-known and distinctive trademark BOURSORAMA. The disputed domain name contains an obvious misspelling of the Complainant's trademark BOURSORAMA. The addition of the letter "J" is not sufficient to avoid the likelihood of confusion.

Thus, this is a clear case of "typosquatting" in the view of Complainant, i.e. the disputed domain name contains an obvious misspelling of the Complainant's trademark.

The Complainant asserts that the Respondent is not identified in the Whois as the disputed domain name, but as "hui li".

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name and he is not related in any way with the Complainant. 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 Complainant also claims that the disputed domain name is a typosquatted version of the trademark BOURSORAMA. Typosquatting is the practice of registering a domain name in an attempt to take advantage of Internet users' typographical errors and can be evidence that a respondent lacks rights and legitimate interests in the domain name.

Therefore, the Respondent in the view of Complainant has no rights or legitimate interests in respect of the disputed domain name.

Complainant contends, that given the distinctiveness of the Complainant's trademarks and reputation, it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's trademark.

In the case at hand, the Respondent acted in bad faith especially because the Respondent, who has no connection with the well-known "BOURSORAMA" trademark, registered a domain name, which incorporates the well-known "BOURSORAMA" trademark and it is totally irrealistic to believe that the Respondent did not know the Complainant's trademark when registered the disputed domain name.

Moreover, the Complainant states the misspelling of the trademark BOURSORAMA was intentionally designed to be confusingly similar with the Complainant's trademark. Previous UDRP Panels have seen such actions as evidence of bad faith.

Furthermore, the website related to the disputed domain name is currently inactive. The Complainant contends that the Respondent has not demonstrated any activity in respect of the disputed domain name, and it is not possible to conceive of any plausible actual or contemplated active use of the domain name by the Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant's rights under trademark law.

On these bases, the Complainant concludes that the Respondent has registered and is using the disputed domain name in bad 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

A. Identical or Confusingly Similar

The Complainant has rights in the mark by virtue of its registered trademark BOURSORAMA.

The disputed domain name incorporates the whole of the Complainant’s BOURSORAMA trademark, and adds the letter "J" on the 4th position in the middle of the domain name and the gTLD suffix “.com". Whilst the addition of the letter "J" is enough to preclude the disputed domain name from being identical to the Complainant’s registered trademark "BOURSORAMA", it is not enough to be not considered as confusingly similar to the "BOURSORAMA" mark, and the Panel accepts the Complainant’s submissions in so finding.

The Panel agrees with the Complainant that the addition of the letter "J" without space or hyphen at the middle of the disputed domain name and the gTLD “.com” is not sufficient to escape the finding that the disputed domain name is confusingly similar to the Complainant's trademark and does not change the overall impression of the designation as being connected to the trademark BOURSORAMA. Therefore the Panel finds, that the disputed domain name is confusingly similar to the Complainant’s trademark BOURSORAMA.

B. Rights or Legitimate Interests

When a respondent remains completely silent in the face of a prima facie case that it lacks any rights or legitimate interests in respect of a domain name, a complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the Policy. Here the Complainant has presented an abundance of evidence to show that the Respondent has no plausible right or legitimate interest in respect of the Disputed domain name and the Panel so finds.

C. Bad Faith

The Panel believes that Respondent registered the disputed domain name with knowledge of Complainant's rights. The disputed domain name was registered decades after the registration of the trademarks of the Complainant and Complainant used it widely since then. Given the circumstances of the case including the distinctive nature of the mark BOURSORAMA, it is inconceivable to the Panel that the Respondent registered the disputed domain name without prior knowledge of the Complainant and the Complainant's mark.

The Panel also agrees with Complainant that the misspelling of the trademark BOURSORAMA was intentionally designed to be confusingly similar with the Complainant's trademark. Previous UDRP Panels have seen such actions as evidence of bad faith (Forum Case No. FA 877979, Microsoft Corporation v. Domain Registration Philippines).

Furthermore, the website related to the disputed domain name is currently inactive.

On these grounds, the Panel concludes that the Respondent has registered and is using the disputed domain name in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BOUJRSORAMA.COM**: Transferred

PANELLISTS

Name	**Jan Christian Schnedler, LL.M.**

DATE OF PANEL DECISION 2020-02-10

Publish the Decision