Decision for dispute CAC-UDRP-102812

Case number	CAC-UDRP-102812
Time of filing	2019-12-12 10:26:41
Domain names	bours-orama.com

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	BOURSORAMA SA

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Organization	GIMSA

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

The Complainant is the registered European Union trademark BOURSORAMA n°001758614 registered on 19 October 2001 for goods and services in classes 9, 16, 35, 36, 38. This mark is in force.

FACTUAL BACKGROUND

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

The Complainant was founded in 1995 and is active in the field of online brokerage, online financial information and online banking with more than 1,500,000 customers in France.

The Respondent registered the disputed domain name <bours-orama.com> on 6 December 2019.

It results from the Complainant’s documented allegations that the disputed domain name resolves to a website proposing financial services in French language and showing the Complainant's logo.

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

1.
The Panel finds that the disputed domain name is confusingly similar to the Complainant’s trademark.

The Complainant’s European Union trademark BOURSORAMA n°001758614 (registered on 19 October 2001 for goods and services in classes 9, 16, 35, 36, 38) is identically included in the disputed domain name. The mere division of the term BOURSORAMA with a hyphen in the second level domain of the disputed domain name does not avoid the confusing similarity between the disputed domain name and the Complainant’s trademark.

2.
In the absence of any response, or any other information from the Respondent indicating the contrary, the Panel further holds that the Complainant successfully presented its prima facie case and that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

In particular, the Respondent is not affiliated with nor authorized by the Complainant in any way, and it is not related to the Complainant’s business. In addition, the Respondent is not commonly known by the disputed domain name pursuant to paragraph 4(c)(ii) of the Policy. Furthermore, the Respondent is not making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue pursuant to paragraph 4(c)(iii) of the Policy. In fact, the disputed domain name is used to resolve to a commercial website proposing financial services in French language and showing the Complainant's logo. The Panel sees such use as the attempt to capitalize on the reputation and goodwill of the Complainant’s mark or otherwise mislead Internet users. Such use cannot be qualified as use in connection with a bona fide offering of goods or services pursuant to paragraph 4(c)(i) of the Policy.

3.
Finally, the Panel finds that the disputed domain name has been registered and is being used in bad faith. It is indeed satisfied that the Respondent has registered the disputed domain name for the mere purpose of intentionally attempting to attract, for commercial gain, Internet users to its own web site by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or of the products/services on that website (see paragraph 4(b)(iv) of the Policy).

As stated above under point 2., the disputed domain name is used to resolve to a commercial website proposing financial services in French language and showing the Complainant's logo. Therefore, this Panel has no doubt that the Respondent

positively knew the Complainant’s BOURSORAMA trademark when it registered the disputed domain name containing said mark entirely. In the Panel's view registration of the disputed domain name in combination with the following factors amount to a finding that a respondent has registered a disputed domain name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the complainant’s mark: (1) the Respondent's awareness of the BOURSORAMA mark and logo certified by the disputed domain name and its current use; (2) the absence of any rights or legitimate interests; (3) the absence of any conceivable good faith use; (4) the Respondent's failure to submit a response or to provide any evidence of actual or contemplated good faith use; (5) the Respondent concealing its identity behind a different name and address than the correct data recorded with the Registrar.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BOURS-ORAMA.COM**: Transferred

PANELLISTS

Name	**Dr. Tobias Malte Müller**

DATE OF PANEL DECISION 2020-01-28

Publish the Decision