Decision for dispute CAC-UDRP-102866

Case number	CAC-UDRP-102866
Time of filing	2020-01-20 10:07:30
Domain names	borsouramaacces.com

Case administrator

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

Complainant

Organization	BOURSORAMA SA

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Name	Daniel Bernard

OTHER LEGAL PROCEEDINGS

The Panel is not aware of other legal proceedings relating to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of several trademarks BOURSORAMA, such as the European trademark n° 1758614 registered since 2001-10-19. The BOURSORAMA.COM domain name, created on 1998, is also assigned to the Complainant.

FACTUAL BACKGROUND

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

The Complainant contends that:

1. The disputed domain name <borsouramaacces.com> is confusingly similar to its trademark BOURSORAMA®. Indeed, the domain name includes in its entirety the Complainant's trademark.
It is well-established that "a domain name that wholly incorporates a Complainant's registered trademark may be sufficient to establish confusing similarity for purposes of the UDRP". Please see WIPO Case No. D2003-0888, Dr. Ing. h.c. F. Porsche AG v. Vasiliy Terkin.
Finally, many UDRP decisions have also confirmed the Complainant's rights such as:
- WIPO Case No. D2019-0653, Boursorama S.A. v. Privacy Protection / Natalya Rustmovna <boursorama-connexion.site> ;

- WIPO Case No. D2019-0422, Boursorama S.A. v. sabine jeane <b-sorama-group.com>;
- CAC Case No. 102340, BOURSORAMA SA v. Céline Levy <boursorama-clients.com>.

2. The Respondent does not have any rights or legitimate interest in the disputed domain name.
The Respondent is not known by the Complainant. The Complainant contends that Respondent is not affiliated with nor authorized by the Complainant in any way. The Complainant contends that Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant does not carry out any activity for, nor has any business with the Respondent.

3.The disputed domain name has been registered and is being used in bad faith
Given the reputee of Complainant's trademark, the Respondent has registered the domain name with full knowledge of the Complainant's trademark. Such conclusion has been reached in other UDRP proceedings, namely:
- CAC Case No. 101131, BOURSORAMA v. PD Host Inc - Ken Thomas (“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 domain name <wwwboursorama.com>.”);
- WIPO Case No. D2017-1463, Boursorama SA v. Estrade Nicolas (“Given the circumstances of the case including the evidence on record of the longstanding of use of the Complainant's trademark, and the distinctive nature of the mark BOURSORAMA, it is inconceivable to the Panel in the current circumstances that the Respondent registered the disputed domain name without prior knowledge of the Complainant and the Complainant's mark.”)

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) Confusing similarity

The Panel agrees with the Complainant's assertions that moving the letter “U” and adding the generic French term “ACCES” (which means "ACCESS") is not sufficient to escape the finding that the domain name is confusingly similar to the trademark BOURSORAMA. Indeed, “BORSOURAMA” can easily be confused with “BOURSORAMA”.

B) Lack of legitimate rights or interests

With regards to the second prong established by UDRP Policy, the Panel is satisfied by the prima facie arguments put forward by the Complainant, even considering no response have been filed by the Respondent. The Complainant's assertions that the Respondent is not commonly known by the disputed domain name and is not affiliated with nor authorized by the Complainant are sufficient to constitute a prima facie demonstration of absence of rights or legitimate interest in the disputed domain name on the part of the Respondent.

C) Registered or Used in Bad Faith

The Complainant was able to provide further indicia that the disputed domain name has been registered and used in bad faith, with the primarily intent to exploit the well-known status of Complainant's trademarks. The Panel shares Complainant's submission that the Respondent, a French citizen, had knowledge of the Complainant's rights prior to the registration of the disputed domain name, which is a hallmark of bad faith.
Lack of any substantial content in the disputed domain supports the conclusions on bad faith registration and use by Respondent.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BORSOURAMAACCES.COM**: Transferred

PANELLISTS

Name	**Roberto Manno**

DATE OF PANEL DECISION 2020-03-02

Publish the Decision