Decision for dispute CAC-UDRP-103489

Case number	CAC-UDRP-103489
Time of filing	2020-12-30 09:19:16
Domain names	boursorama-messagerie.com

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)

Complainant

Organization	BOURSORAMA SA

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Name	SOUMAN SELERINE

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 owns European Trade Mark registration number 001758614 for BOURSORAMA registered on 19 October 2001. It also owns various domain names incorporating its trade mark and in particular its main domain name registration <boursorama.com> created on 1 March 1998.

FACTUAL BACKGROUND

The Complainant, founded in 1995 provides online broking, financial information services and online banking services and in France has over 2 million customers who access its services through its main platform at <boursorama.com>.

The disputed domain was registered on 23 December 2020 and appears on the register as being registered to a privacy service. At the date of filing of this Complaint it resolves to a "suspended account" holding page following the Complainant's request that it had been used for attempted "phishing" and should be suspended.

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 it owns European Trade Mark registration number 001758614 for BOURSORAMA registered on 19 October 2001. The disputed domain name wholly incorporates this trade mark and is therefore confusingly similar to it. The inclusion in the disputed domain name, prior to the ".com" top level domain name root, of a hyphen and the commonly used French word "messagerie" (which the Panel understands may mean messaging or bulletin board or refer to electronic mail depending upon its context) does not detract from this finding of confusing similarity. As a result, the Panel finds that the Complaint succeeds under the first element of the Policy.

The Complainant has submitted that the Respondent is not known by it and is not affiliated with nor authorized by the Complainant in any way and does not carry out any activity for, nor has any business with, the Respondent. The Complainant also asserts that neither licence nor authorisation has been granted to the Respondent to make any use of the Complainant’s trade mark BOURSORAMA®, or for it to apply for registration of the disputed domain name.

The Complainant has also submitted that further to its complaint to the relevant hosting service that the disputed domain name was being used by the Respondent in attempted "phishing", that the disputed domain name has been suspended for abusive use and now resolves to holding page on which it is listed as having been suspended. The Complainant contends further that Respondent has not made any use of the disputed domain name since its registration and that it has no demonstrable plan to use the disputed domain name.

The Panel finds that the Complainant has made out a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent has failed to respond or to rebut this case and for this reason and

for the reasons set out in relation to "Bad Faith" below, the Panel finds that the Complainant has made out its case that the Respondent has no rights or legitimate interests in the disputed domain name. Accordingly, the Complaint also succeeds under this element of the Policy.

As far as bad faith is concerned the Panel notes that the BOURSORAMA trade mark is a coined term that is highly distinctive and has been used extensively by the Complainant, a publicly listed company, at least in France, for many years. Further, the Complainant's BOURSORAMA, European Trade Mark registration number 001758614 was registered by the Complainant many years prior to the very recent registration of the disputed domain name. It is therefore reasonable to infer, that the Respondent, who appears also to be based in France was well aware of the Complainant's mark and business upon registration of the disputed domain name.

The Complainant has contended that the Respondent has not demonstrated any activity in respect of the disputed domain name and that it is not possible to conceive of any plausible actual or contemplated active use of the disputed domain name, containing as it does the very well reputed BOURSORAMA mark, that would not be illegitimate. This together with the fact that the relevant hosting service for the disputed domain name appears to have suspended its use within 7 days of registration based on the Complainant's assertion that it was being used abusively for "phishing", together with the use by the Respondent of a privacy service to mask its identity on the Whois platform, all point to use in bad faith. Again, the Respondent has failed to provide any response or justification for its use or explanation in relation to the Complainant's allegation of "phishing". In these circumstances the Panel finds that the circumstances and evidence support a finding of registration and use of the disputed domain name in bad faith and that the Complaint succeeds under the third element of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

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

PANELLISTS

Name	**Alistair Payne**

DATE OF PANEL DECISION 2021-02-01

Publish the Decision