

Decision for dispute CAC-UDRP-104023

Case number	CAC-UDRP-104023
Time of filing	2021-09-20 09:58:51
Domain names	boursoramaclient.com

Case administrator

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

Organization	BOURSORAMA SA
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Complainant representative

Organization	NAMESHIELD S.A.S.
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Respondent

Organization	metall vergine
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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@", such as the European trademark n° 1758614 registered since 19 October 2001 for various goods and services in classes 9, 16, 35, 36, 38, 41, and 42.

The Complainant also owns a number of domain names, including the same distinctive wording BOURSORAMA@, such as the domain name <boursorama.com>, registered since 1 March 1998 and <clients-boursorama.com> registered since 23 March 2017.

The disputed domain name <boursoramaclient.com> was registered on 13 September 2021 and redirects to a parking page.

FACTUAL BACKGROUND

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

The Complainant BOURSORAMA S.A., founded in 1995, 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, financial information on the Internet and online banking, BOURSORAMA S.A. based its growth on innovation, commitment and transparency.

In France, BOURSORAMA is the online banking reference with over 1,5 million customers. The portal <https://www.boursorama.com> is the first national financial and economic information site and first French online banking platform.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

COMPLAINANT:

This registration is a clear case of "typosquatting", i.e. the disputed domain name contains an obvious misspelling of the Complainant's trademark. The slight spelling variations does not prevent a disputed domain name from being confusingly similar to the complainant's trademark.

The Complainant recalled:

- CAC case No. 102253, BOURSORAMA v. Brandsos.com ("The disputed domain names are almost identical to the trademark BOURSORAMA of the Complainant since the only differences refer to an single letter added to Complainant's trademark BOURSORAMA [...] The Panel therefore considers the disputed domain names to be confusingly similar to the trademarks in which the Complainant have rights in accordance with paragraph 4(a)(i) of the Policy.").

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.

- Forum Case No. 1597465, The Hackett Group, Inc. v. Brian HERN / The Hackett Group ("The Panel agrees that typosquatting is occurring, and finds this is additional evidence that Respondent has no rights or legitimate interests under Policy 4(a)(ii).").

It is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademark.

The Complainant recalled:

- CAC Case No. 101131, BOURSORAMA v. PD Host Inc – Ken Thomas;

- WIPO Case No. D2017-1463, Boursorama SA v. Estrade Nicolas.

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.

The Complainant recalled:

- Forum Case No. FA 877979, Microsoft Corporation v. Domain Registration Philippines ("In addition, Respondent's misspelling of Complainant's MICROSOFT mark in the <microsoft.com> domain name indicates that Respondent is

typosquatting, which is a further indication of bad faith registration and use pursuant to Policy 4(a)(iii).")

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 Panel is aware that under paragraph 4(a) of the Policy, the Complainant must prove that each of the following three elements is present:

- (i) the disputed domain name is identical or confusingly similar to the Complainant's trademark; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

A. THE DISPUTED DOMAIN NAME IS CONFUSINGLY SIMILAR TO A TRADEMARK OR SERVICE MARK IN WHICH THE COMPLAINANT HAS RIGHTS

Based on the evidence before the Panel, the Panel cannot find any rights or legitimate interests of the Respondent either.

The Panel accepts that the disputed domain name is confusingly similar to the European trademark of the Complainant No. 1758614 as it consists of an obvious misspelling of the trademark.

The Panel finds that the disputed domain name <boursoramaclient.com> is confusingly similar to its trademark "BOURSORAMA®". The addition of the letter "S" and the addition of the term "CLIENT" in the given trademark is not sufficient to escape the finding that the domain name is confusingly similar to the trademark and branded goods BOURSORAMA®. This is a clear case of "typosquatting". The Panel concludes that typographical error variations and misspellings of trademarked terms have long been found to be confusingly similar. The Panel agrees that typosquatting is occurring, and finds this is additional evidence that Respondent has no rights or legitimate interests in the disputed domain name.

Furthermore, the disputed domain name is confusingly similar to the Complainant's domain name <clients-boursorama.com> registered since 2017 while a changing of the order of words and omitting the hyphen cannot help the Respondent to escape the similarity of the disputed domain name to the domain name owed by the Complainant.

The addition of the generic Top-Level Domain suffix ".COM" does not change the common impression of the designation as being connected to the trademark BOURSORAMA® of the Complainant. It does not prevent the likelihood of confusion between the disputed domain names and the Complainant, its trademark and its domain names associated. The specific top

level of a domain name such as “.com”, “.org” or “.net” does not affect the domain name for the purpose of determining whether it is identical or confusingly similar.”

The Panel therefore finds that the disputed domain name is 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).

B. THE RESPONDENT HAS NO RIGHTS OR LEGITIMATE INTERESTS IN RESPECT OF THE DISPUTED DOMAIN NAME

The Respondent does not correspond to the name and it is obvious that it has any other rights to the disputed domain name while it is not known under the disputed domain name. The use of the Complainant’s trademark has to be authorized by the Complainant. The Whois database shows that the disputed domain name is registered with "metall germin" seated in Berlin that is obviously a different company name from the trademarks of the Complainant. The Respondent has been granted neither license nor authorization to make any use of the Complainant’s trademark "BOURSORAMA®", or apply for registration of the disputed domain name <bourssoramaclient.com>. Accordingly, Respondent has no rights or legitimate interests on the disputed domain name <bourssoramaclient.com>. The Panel finds that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademark.

The Panel therefore finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

C. THE DISPUTED DOMAIN NAME WAS REGISTERED AND IS USED IN BAD FAITH

The Panel came to the conclusion that the disputed domain name <bourssoramaclient.com> is confusingly similar to the Complainant's trademark "BOURSORAMA®". Therefore, it is obvious that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademark. The evidence on record of the longstanding of use of the Complainant's trademark, and the distinctive nature of the trademark "BOURSORAMA®" is inconceivable to the Panel that the Respondent did not registered the disputed domain name without prior knowledge of the Complainant and the Complainant's mark.

The disputed domain name is in parking page. The Panel finds 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. Such behaviour has to be seen also as a clear evidence of bad faith.

The Panel is therefore convinced that the overall circumstances of this case suggest that the disputed domain name was registered and is being used in bad faith and the Complainant has satisfied paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BOURSSORAMACLIENT.COM**: Transferred

PANELLISTS

Name	JUDr. Vojtěch Trapl
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DATE OF PANEL DECISION 2021-10-14

