

Decision for dispute CAC-UDRP-104077

Case number	CAC-UDRP-104077
Time of filing	2021-10-14 09:36:13
Domain names	boursoramafamily.com

Case administrator

Organization	Denisa Bilík (CAC) (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

Name	BERNARD HUBERT
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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

European trademark n° 1758614 BOURSORAMA, registered on October 19, 2001.

FACTUAL BACKGROUND

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

The disputed domain name <boursoramafamily.com> is confusingly similar to the Complainant's trademark BOURSORAMA.

The Respondent does not have any rights or legitimate interest in the <boursoramafamily.com> domain name. The Respondent is not known by the domain name; is not known by the Complainant and is not affiliated with nor authorized by the Complainant in any way. The Complainant does not carry out any activity for, nor has any business with the Respondent. Neither license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark BOURSORAMA nor to apply for registration of the domain name <boursoramafamily.com>, which resolves to a webpage entitled "Mon identifiant" (which means "My ID" in French) and asks Internet users for their ID number. This page copies the Complainant's official customer access page. Therefore, the Respondent registered the domain name in order to create a

likelihood of confusion and phish for personal banking information, which is not a bona fide offering of goods and services nor a legitimate non-commercial or fair use.

The <boursoramafamily.com> domain name has been registered and is being used in bad faith. It is confusingly similar to the Complainant's well-known trademark BOURSORAMA and it is reasonable to infer that the Respondent registered the domain name with full knowledge of the Complainant's trademark. It resolves to page copying the Complainant's official customer access page. Thus, the Respondent attempts to impersonate the Complainant in order to phish for personal banking information. This is a hallmark of 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

Paragraph 15(a) of the Rules instructs this Panel to "decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable."

Paragraph 4(a) of the Policy requires that the Complainant must prove each of the following three elements to obtain an order that the domain name should be cancelled or transferred:

- (4) the domain name registered by the Respondent is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (5) the Respondent has no rights or legitimate interests in respect of the domain name; and
- (6) the domain name has been registered and is being used in bad faith.

In view of the Respondent's failure to submit a Response, the Panel shall decide this administrative proceeding on the basis of the Complainant's undisputed representations pursuant to paragraphs 5(f), 14(a) and 15(a) of the Rules and draw such inferences as it considers appropriate pursuant to paragraph 14(b) of the Rules. The Panel is entitled to accept all reasonable allegations set forth in a complaint. However, the Panel may deny relief where a complaint contains mere conclusory or unsubstantiated arguments. See WIPO Jurisprudential Overview 3.0 at paragraph 4.3.

Identical and/or Confusingly Similar

The Complainant has shown that it has rights in European trademark registration BOURSORAMA, n° 1758614 registered on October 19, 2001. The Respondent's <boursoramafamily.com> domain name is confusingly similar to the Complainant's

mark, only differing by the addition of the word 'family', which does nothing to distinguish the domain name from the mark, and the inconsequential ".com" generic top-level domain ("gTLD"), which may be ignored.

Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets out three illustrative circumstances as examples which, if established by the Respondent, shall demonstrate rights to or legitimate interests in the domain name for purposes of paragraph 4(a)(ii) of the Policy, i.e.

(i) before any notice to the Respondent of the dispute, the use by the Respondent of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or

(ii) the Respondent (as an individual, business or other organization) has been commonly known by the domain name, even if the Respondent has acquired no trademark or service mark rights; or

(iii) the Respondent is making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert customers or to tarnish the trademark or service mark at issue.

The domain name <boursoramafamily.com> was registered on October 8th, 2021, long after the registration of the Complainant's BOURSORAMA mark, which the Complainant has shown is very well-known. It resolves to a page copying the Complainant's official customer access page at its website "www. boursorama.com". These circumstances, together with the Complainant's assertions, are sufficient to constitute a prima facie showing of absence of rights or legitimate interests in respect of the domain name on the part of the Respondent. The evidentiary burden therefore shifts to the Respondent to show that he does have rights or legitimate interests in the <boursoramafamily.com> domain name. See *Neal & Massey Holdings Limited v. Gregory Ricks*, FA 1549327 (FORUM Apr. 12, 2014). The Respondent has made no attempt to do so.

The Panel finds that the Respondent has no rights or legitimate interests in respect of the domain name.

Registration and Use in Bad Faith

The circumstances set out above in relation to the second element satisfy the Panel that the Respondent was fully aware of the Complainant's well-known BOURSORAMA mark when the Respondent registered the <boursoramafamily.com> domain name and did so in bad faith to attract Internet users to the Respondent's website in order to engage in "phishing" for the personal information of the Complainant's customers.

Accordingly, the Panel finds that the <boursoramafamily.com> domain name was registered and is being used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. BOURSORAMAFAMILY.COM: Transferred

PANELLISTS

Name	Mr. Alan Lawrence Limbury
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DATE OF PANEL DECISION 2021-11-05

Publish the Decision