

Decision for dispute CAC-UDRP-104433

Case number CAC-UDRP-104433

Time of filing 2022-03-23 09:17:25

Domain names fr-boursorama.com

Case administrator

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

Complainant

Organization BOURSORAMA SA

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Organization 1337 Services LLC

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 bases its Complaint on the European Union "BOURSORAMA", no. 001758614, filed on 13 July 2000, registered on 19 October 2001, for goods and services in classes 09, 16, 35, 36, 38, 41, 42.

FACTUAL BACKGROUND

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

The Complainant, 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, the Complainant based its growth on innovation, commitment and transparency.

In France, the Complainant is the online banking reference with over 3,3 million customers. According to the Complainant, the portal www.boursorama.com is the first national financial and economic information site and first French online banking

platform.

The Complainant is the owner of several trademarks BOURSORAMA, such as the European trademark no. 1758614, registered since 19 October 2001.

The Complainant also owns a number of domain names, including the same distinctive wording BOURSORAMA, such as the domain names <boursorama.com>, registered since 1 March 1998, and <boursoramabanque.com>, registered since 26 May 2005.

The disputed domain name <fr-boursorama.com> was registered on 16 March 2022 and resolves to a parking page.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant's contentions are the following:

The Complainant states that the disputed domain name <fr-boursorama.com> is confusingly similar to its trademark BOURSORAMA and its domain names associated.

The Complainant contends that the addition of the abbreviation "FR" (for France) does not change the overall impression of the designation as being connected to the Complainant's trademark BOURSORAMA and that it does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and domain names associated.

Moreover, the Complainant contends that the addition of the suffix ".COM" does not change the overall impression of the designation as being connected to the trademark BOURSORAMA. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and its domain names associated.

Further, the Complainant sustains that the Respondent does not have any rights or legitimate interest in the disputed domain name.

In this sense, the Complainant asserts that the Respondent is not identified in the Whois database as the disputed domain name and that 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. Further, the Complainant sustains that it 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, or apply for registration of the disputed domain name as per the what the Complainant sustains.

Moreover, the disputed domain name resolves to a parking page. The Complainant contends that Respondent did not use the disputed domain name, and it confirms that Respondent has no demonstrable plan to use the disputed domain name.

Further, the Complainant sustains that the disputed domain name has been registered and is being used in bad faith.

To this end, the Complainant contends that the disputed domain name is confusingly similar to the Complainant's well-known trademark BOURSORAMA.

Therefore, in the Complainant's view, the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademark.

In addition, the Complainant sustains that all of the results of a search of the terms "BOURSORAMA" refers to the Complainant.

Thus, the Complainant contends that the Respondent has registered and used the disputed domain name with full knowledge of the Complainant's trademark.

Besides, the Complainant asserts that the disputed domain name resolves to a parking page. The Complainant contends 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.

On these bases, the Complainant asserts that the Respondent has registered and is using the disputed domain name in bad faith.

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

I. Confusing Similarity

The Panel agrees that the disputed domain name <fr-boursorama.com> is confusingly similar to the Complainant's earlier trademark BOURSORAMA. The addition of the geographical term "FR" is not sufficient to escape the finding that the disputed domain name is confusingly similar to the trademark BOURSORAMA.

In fact, the likelihood of confusion is underlined by the addition of this geographical term as it might induce the idea that this domain name is related to the Complainant's official domain name <boursorama.com>.

Moreover, the extension ".com" is not to be taken into consideration when examining the similarity between the Complainant's trademark and the disputed domain name (WIPO Case No. D2005-0016, Accor v. Noldc Inc.). The mere adjunction of a gTLD such as ".com" is irrelevant as it is well established that the generic Top Level Domain is insufficient to avoid a finding of confusing similarity (WIPO Case No. 2013-0820, L'Oréal v Tina Smith, WIPO Case No. D2008-0820 Titoni AG v Runxin Wang and WIPO Case No. D2009-0877, Alstom v. Itete Peru S.A.).

Therefore, the Panel is satisfied that the first condition under the Policy is met.

II. Lack of Respondent's rights or legitimate interests

The Complainant is required to make out a prima facie case that the respondent lacks rights or legitimate interests. Once such prima facie case is made, the burden of proof shifts to the respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such appropriate allegations or evidence, a complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the Policy.

Based on the available evidence, the Respondent does not appear to be known by the disputed domain name. The Respondent is not a licensee of, nor has any kind of relationship with, the Complainant. The Complainant has never authorised the Respondent to make use of its trademark, nor of a confusingly similar trademark in the disputed domain name.

The disputed domain name resolves to a parking page. Such use does not amount to a bona fide offering of goods or services, or to a legitimate noncommercial or fair use of the disputed domain name, as other UDRP panels have found.

The Panel notes that the Respondent had an opportunity to comment on the Complaint's allegations by filing a Response, which the Respondent failed to do.

Thus, the Panel is satisfied that the Complainant has at least established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. Accordingly, the Panel takes the view that also the second requirement under the Policy is met.

III. Bad Faith

The Complainant founded in 1995 conducts its activity in three core businesses, online brokerage, financial information on the Internet and online banking. The registration of the trademark BOURSORAMA predates the Respondent's registration of the disputed domain name.

Therefore, the Panel concludes that at the time of registration of the disputed domain name, the Respondent was aware of the Complainant's trademark and has intentionally registered the domain name in order to create confusion with the Complainant's trademark.

In the present case, the following factors should be also considered:

(i) the Respondent failed to submit any response and has not provided any evidence of actual or contemplated good faith use of the disputed domain name;

(ii) the Respondent registered the disputed domain name containing the Complainant's earlier trademark BOURSORAMA to which it added the geographical term "FR", in the context where the Complainant is active also in France and it already has the domain name <boursorama.com>;

(iii) the Respondent has no business relationship with the Complainant, nor was ever authorised to use a domain name similar to the Complainant's trademark;

(iv) the disputed domain name redirects to a parking page.

In light of the foregoing, the Panel concludes that the Respondent has registered and has been using the disputed domain

name in bad faith. Thus, also the third and last condition under the Policy is satisfied.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **FR-BOURSORAMA.COM**: Transferred
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PANELLISTS

Name	Delia-Mihaela Belciu
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DATE OF PANEL DECISION **2022-04-27**

Publish the Decision
