

Decision for dispute CAC-UDRP-104463

Case number	CAC-UDRP-104463
Time of filing	2022-04-07 09:58:04
Domain names	support-boursorama-particulier.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

Name	El drissi Rayon
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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 registered European Union trademark BOURSORAMA n°001758614 registered on 19 October 2001 for goods and services in classes 9, 16, 35, 36, 38. This mark is in force.

FACTUAL BACKGROUND

The Complainant was founded in 1995 and is active in the field of online brokerage, online financial information and online banking with currently more than 3,3 million customers in France.

The Respondent registered the disputed domain name <support-boursorama-particulier.com> on 31 March 2022.

It results from the Complainant's documented allegations that the disputed domain name resolves to an error page ("HTTP/1.0 404 Not Found").

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

1.

The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark.

The Complainant's European Union trademark BOURSORAMA n°001758614 (registered on 19 October 2001 for goods and services in classes 9, 16, 35, 36, 38) is identically included in the disputed domain name. The mere addition of the terms "support-" and "-particulier" (meaning "individual" in French) does not avoid the confusing similarity between the disputed domain name and the Complainant's trademark. All to the contrary: These terms are applicable as a descriptive terms to the Complainant's business, since it could be understood as a kind of support service for individuals. In addition, the trademark BOURSORAMA remains clearly recognizable within the disputed domain name <support-boursorama-particulier.com> due to the hyphens directly before and after the trademark.

2.

In the absence of any response, or any other information from the Respondent indicating the contrary, the Panel further holds that the Complainant successfully presented its prima facie case and that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

In particular, the Respondent is not affiliated with nor authorized by the Complainant in any way, and it is not related to the Complainant's business. In addition, the Panel does not dispose of any elements that could lead the Panel to the conclusion that the Respondent is commonly known by the disputed domain name or that it has acquired trademark rights pursuant to paragraph 4(c)(ii) of the Policy. Finally, no content is displayed on the website to which the disputed domain name resolves. Such use can neither be considered a bona fide offering of goods or services nor a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue in the sense of paragraph 4(c)(i) and (iii) of the Policy. In addition, the Respondent's concealment of its identity behind a privacy service is also taken in consideration, and this Panel finds that it most likely that the Respondent selected the disputed domain name with the intention to take advantage of the Complainants' registered trademark by registering a domain name consisting of that trademark with the intent to attract Internet users for commercial gain.

3.

Finally, the Panel finds that the disputed domain name has been registered and is being used in bad faith.

According to the Complainants' undisputed allegations, the Respondent does not actively use the disputed domain name.

With comparative reference to the circumstances set out in paragraph 4(b) of the UDRP deemed to establish bad faith registration and use, prior UDRP panels have found that the apparent lack of active use (e.g., to resolve to a website) of the domain name without any active attempt to sell or to contact the trademark holder (passive holding), does not as such prevent a finding of bad faith (see Actelion Pharmaceuticals, Ltd v. Whois Agent, Whois Privacy Protection Service, Inc / Jean-Paul Clozel, WIPO Case No. D2016-0068; Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003).

In the case at hand, the Panel finds that the further circumstances surrounding the registration - listed hereinafter - suggest that the Respondent was aware that it has no rights or legitimate interests in the disputed domain name, and that the disputed domain name has been registered and is being used in bad faith (see Actelion Pharmaceuticals, Ltd v. Whois Agent, Whois Privacy Protection Service, Inc / Jean-Paul Clozel, supra; America Online, Inc. v. Antonio R. Diaz, WIPO Case No. D2000-1460):

- (1) Disputed domain name combining the Complainant's entire distinctive trademark with two descriptive terms, which can be associated to the Complainant's activities,
- (2) Respondent's failure to reply to the Complaint,
- (3) Respondent hiding its identity behind a privacy shield,
- (4) Complainant's registered trademark has existed for twenty years,
- (5) No plausible legitimate active use that the Respondent could make of the disputed domain name.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. SUPPORT-BOURSORAMA-PARTICULIER.COM: Transferred

PANELLISTS

Name	Dr. Tobias Malte Müller
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DATE OF PANEL DECISION 2022-05-12

Publish the Decision