

Decision for dispute CAC-UDRP-104669

Case number	CAC-UDRP-104669
Time of filing	2022-06-23 09:39:25
Domain names	boursorama-epargne.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	Vik White
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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 owns the European trademark number 001758614 for BOURSORAMA, which was registered on 19 October 2001 in classes 9, 16, 35, 36, 38, 41 and 42.

FACTUAL BACKGROUND

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

The Complainant has three core businesses: online brokerage, financial information on the Internet and online banking. In France, BOURSORAMA is the online banking reference with over 3.7 million customers. The portal www.boursorama.com is the first national financial and economic information site and the first French online banking platform.

The Complainant owns the European trademark BOURSORAMA. It also owns several domain names, including the word BOURSORAMA, including the domain name <boursorama.com>, registered since 1 March 1998.

The disputed domain name was registered on 19 June 2022 and resolves to a parking page.

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 4(a) of the Policy requires the Complainant to prove each of the following three elements:

- i. the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- ii. the Respondent has no rights or legitimate interests in the disputed domain name; and
- iii. the disputed domain name has been registered and used in bad faith.

A. IDENTICAL OR CONFUSINGLY SIMILAR

The Complainant asserts that the addition of the French generic term “epargne” (“thrift”) is not sufficient to escape the finding that the disputed domain name is confusingly similar to the trademark BOURSORAMA.

The disputed domain name is comprised of the Complainant’s mark BOURSORAMA, a hyphen, the term “epargne” and the suffix “.com”.

It is well recognised that the generic top-level suffix, such as “.com”, is a standard registration requirement that the Panel may ignore when considering whether a disputed domain name is confusingly similar to a trademark in which the Complainant has rights. The dominant part of the disputed domain name is the word BOURSORAMA. Adding a hyphen and the French term “epargne” to the Complainant’s trademark BOURSORAMA does not change the overall impression that the disputed domain name is confusingly similar to the Complainant’s mark.

The Panel finds that that the disputed domain name is confusingly similar to the Complainant’s trademark BOURSORAMA and that the requirements of paragraph 4(a)(i) of the Policy have been met.

B. NO RIGHTS OR LEGITIMATE INTEREST IN THE DISPUTED DOMAIN NAME

The Complainant asserts that the Respondent has no rights or legitimate interest in the disputed domain name and states that:

- i. the Respondent is not identified in the Whois database and is not commonly known by the disputed domain name;
- ii. the Respondent is not known by the Complainant and is not affiliated with, nor authorised by, the Complainant in any way;
- iii. the Complainant has no business with the Respondent, and the Respondent is not licensed or authorised to make any use of the Complainant's trademark or apply for registration of the disputed domain name; and
- iv. the disputed domain name resolves to a parking page and the Respondent has not used disputed domain name since its registration nor is there any demonstrable plan to use it, which demonstrates a lack of legitimate interests in respect of the disputed domain name (WIPO Case No. D2000-1164, Boeing Co. v. Bressi).

The Complainant has made out a prima facie case that the Respondent lacks rights or legitimate interest in the disputed domain name. The Respondent now bears the burden of proof to show that he has relevant rights.

The Respondent has not filed a Response nor submitted any evidence to show any rights or a legitimate interest in the disputed domain name. The Respondent is not commonly known by the disputed domain name and is not authorised to use the Complainant's trademark. There is no evidence to show the Respondent has any demonstrable plan to use the disputed domain name in connection with a bona fide offering of goods or services or legitimate non-commercial use.

Taking the above factors into consideration the Panel finds that the Respondent has no rights or legitimate interest in the disputed domain name and that the requirements of paragraph 4(a)(ii) of the Policy have been met.

C. REGISTERED AND BEING USED IN BAD FAITH

The Complainant asserts that the disputed domain name has been registered and is being used in bad faith.

The Complainant's trademark, BOURSORAMA, is distinctive and longstanding. It pre-dates the registration of the disputed domain name. It is implausible that the Respondent registered the disputed domain name without prior knowledge of the Complainant and its trademark.

The Respondent has used a privacy service to conceal his identity. He has failed to file a Response and has not disputed any of the Complainant's assertions of bad faith registration and use. The disputed domain name resolves a parking page. The Complainant's distinctive trademark is clearly recognisable in the disputed domain name and is not possible to conceive of any plausible actual or contemplated active use of the disputed domain name by the Respondent that would not be an infringement of the Complainant's rights.

Taking all these factors into consideration, the Panel concludes that the Respondent has registered and is using the disputed domain name in bad faith and that the requirements of paragraph 4(a)(iii) of the Policy have been met.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. BOURSORAMA-EPARGNE.COM: Transferred

PANELLISTS

Name	Veronica Bailey
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DATE OF PANEL DECISION 2022-07-18

Publish the Decision
