

Decision for dispute CAC-UDRP-104979

Case number **CAC-UDRP-104979**

Time of filing **2022-11-09 09:47:00**

Domain names **boursosupport.com**

Case administrator

Organization **Denisa Bilík (CAC) (Case admin)**

Complainant

Organization **BOURSORAMA SA**

Complainant representative

Organization **NAMESHIELD S.A.S.**

Respondent

Name **Didier Jore**

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

According to the evidence submitted by Complainant, Complainant is the owner of the French trademark BOURSO, with number 3009973 and a filing date of 22 February 2000.

FACTUAL BACKGROUND

According to the information provided Complainant is a financial services company, including online brokerage, financial information on the Internet and online banking. Complainant owns a number of domain names which include the distinctive wording Boursorama, such as the domain name <boursorama.com>, registered since 1998 and <bourso.com>, registered since 2000.

The disputed domain name <boursosupport.com> was registered on 2 November 2022. The disputed domain name currently does not resolve to an active website.

The trademark registration of Complainant has been issued prior to the registration of the disputed domain name.

According to Complainant the disputed domain name is confusingly similar to Complainant's trademark as it contains the trademark BOURSO in its entirety. The addition of term "support" to the trademark BOURSO is not sufficient to escape the finding that the

disputed domain name is confusingly similar to the trademark.

According to Complainant, Respondent has no rights or legitimate interest in the disputed domain name. Complainant contends that Respondent is not affiliated with nor authorized by Complainant in any way. Complainant does not carry out any activity for, nor has any business with Respondent. Neither license nor authorization has been granted to Respondent to make any use of Complainant's trademark, or apply for registration of the disputed domain name. Furthermore, the disputed domain name is inactive. Complainant contends that Respondent did not make any use of disputed domain name since its registration, and it confirms that Respondent has no demonstrable plan to use the disputed domain name. It demonstrates a lack of legitimate interests in respect of the disputed domain name except in order to create a likelihood of confusion with Complainant and its trademark.

According to Complainant the disputed domain name is registered and is being used in bad faith. Complainant asserts that its trademark BOURSO was already known at the time of the registration of the disputed domain name. Complainant is doing business in more than 80 countries worldwide and is listed at the Euronext Paris stock exchange. Besides, the addition of the term "support" to the trademark BOURSO cannot be coincidental, as it might refer to Complainant's customer service. Finally, according to Complainant 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 Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of Complainant's rights under trademark law. Complainant submits that the incorporation of a famous mark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use.

PARTIES CONTENTIONS

No administratively compliant Response has been filed.

RIGHTS

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 Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

Complainant has, to the satisfaction of the Panel, shown 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

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

In the opinion of the Panel the disputed domain name is confusingly similar to Complainant's BOURSO trademark. Many UDRP decisions have found that a disputed domain name is confusingly similar to a complainant's trademark where the disputed domain name incorporates the complainant's trademark or the principal part thereof in its entirety. The addition of the descriptive term "support" in the disputed domain name may be disregarded. The generic Top-Level Domain ("gTLD") ".com" is also disregarded under the first element confusing similarity test.

In the opinion of the Panel Complainant has made a prima facie case that Respondent lacks rights or legitimate interest in the disputed domain name. Complainant has not licensed or otherwise permitted Respondent to use its trademark or to register the disputed domain name incorporating its mark. Respondent is not making 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 of Complainant. Respondent is not commonly

known by the disputed domain name nor has it acquired trademark rights. Complainant has no relationship with Respondent. In particular the Panel takes into account the undisputed submission of Complainant that the disputed domain name does not resolve to an active website. Respondent did not submit any response.

Under these circumstances, the Panel finds that Respondent has no rights or legitimate interests in the disputed domain name.

The Panel finds that the disputed domain name has been registered and is being used in bad faith. The trademark of Complainant has been existing for a long time and is well-known. Respondent knew or should have known that the disputed domain name included Complainant's trademark. The Panel notes that the disputed domain name does not resolve to an active website. It is well established that non-use of a domain name does not prevent a finding of bad faith use under the doctrine of passive holding (see section 3.3. of the WIPO Overview 3.0). This indicates, in the circumstances of this case, that Respondent registered and used the disputed domain name with the intention to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the trademarks of Complainant as to the source, sponsorship, affiliation, or endorsement of its website or location or of a service on its website or location, which constitutes registration and use in bad faith pursuant to paragraph 4(b)(iv) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **boursosupport.com**: Transferred

PANELLISTS

Name	Dinant T.L. Oosterbaan
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DATE OF PANEL DECISION 2022-12-02

Publish the Decision