

Decision for dispute CAC-UDRP-105026

Case number **CAC-UDRP-105026**

Time of filing **2022-11-30 10:16:03**

Domain names **bourso-banque.info**

Case administrator

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

Complainant

Organization **BOURSORAMA SA**

Complainant representative

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

Respondent

Name **vikan koilzas**

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 owner of the French trademark registration no. 3009973 registered on February 22, 2000 for "BOURSO". The Complainant also owns a number of domain names, including the same distinctive wording BOURSORAMA®, such as the domain name <boursorama.com>, registered since March 1, 1998 or <bourso.com>, registered since January 11, 2000.

FACTUAL BACKGROUND

I - The Complainant

The Complainant, BOURSORAMA S.A., is active in online brokerage, financial information on the Internet and online banking.

According to the Complainant's submissions, BOURSORAMA is the online banking reference with over 4,3 million customers in France. The portal www.boursorama.com is the first national financial and economic information site and first French online banking platform.

II-The Disputed Domain Name

<bourso-banque.info> was registered on November 26, 2022 by Mr. Vikan Koilzas. The disputed domain name redirects to a parking page.

PARTIES CONTENTIONS

Complainant submissions.

As regards the first element of the Policy, the Complainant supports that the disputed domain name is confusingly similar to its trademark BOURSO® as it includes its trademark in its entirety.

As regards the second element of the Policy, the Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, because Complainant has never authorized the Respondent to use the BOURSO trademark, and the disputed domain name do not correspond to the name of the Respondent. The Complainant adds that the Respondent does not carry out a fair or non-commercial use of the disputed domain name as they do not resolve to active websites.

As regards the third element of the Policy, the Complainant supports that the Respondent was aware of its rights on the BOURSO trademark at the time of the registration of the disputed domain name. Furthermore, the fact that <boursobanque.info> was never used is an additional element in support of bad faith in the use of the domain name.

Respondent submissions.

The Respondent did not file an administrative reply to the complaint.

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

A. The disputed domain name is confusingly similar to a trademark or service mark in which the Complainant has rights.

The Panel agrees that <boursobanque.info> is confusingly similar to the BOURSO trademark owned by the Complainant. As a matter of fact, the disputed domain name entirely contains the Complainant's trademark.

Moreover, the addition of the generic term "banque" does not affect the confusing similarity assessment as this term could be easily associated to the Complainant's field of activity.

Last the disputed domain name's extensions ".info" has only a technical function and consequently it should be disregarded for the purpose of assessing the first element of the Policy.

B. Rights and legitimate interests, Para. 4(a)(ii)

Under paragraph 4(a)(ii) of the Policy, a complainant has the burden of establishing that a respondent lacks rights or legitimate interests

in respect of a domain name, but this burden is light. It is sufficient in the first instance for Complainant to allege a prima facie case, and if the evidence presented is persuasive or yields a positive inference that Respondent lacks rights or legitimate interests, the burden shifts to Respondent to rebut the allegations.

In this case, the Panels finds that the Complainant's submitted evidence and allegations, to which the Respondent did not reply, are sufficient to establish a prima facie case of lack of rights and legitimate interests in the disputed domain name.

In particular the Complainant denies that the Respondent has ever been authorized to use the BOURSO trademark as a domain name. Moreover, the WHOIS information excludes that the Respondent could be commonly known with the sign BOURSO or BOURSO BANQUE.

Moreover, according to the evidence submitted by the Complainant the disputed domain name was never actively used. Therefore, the domain name <bourso-banque.info> has not been used in connection with a bona fide offering of goods and services nor in a legitimate noncommercial or fair manner.

C. Registration and use in bad faith, Para. 4(a)(iii)

As far as registration in bad faith is concerned, the Panel finds particularly relevant the following circumstances:

i) the disputed domain name entirely contains the Complainant trademark "BOURSO" which is also used as a domain name (bourso.com). The Complainant's trademark and domain name were registered long before the registration of the disputed domain name;

ii) the disputed domain name combines the Complainant's trademark BOURSO with BANQUE which is a clear reference to the Complainant's field of activity.

These circumstances, in the absence of a reasonable justification by the Respondent, suggest that the Respondent was perfectly aware of the Complainant's trademarks and business at the time of the registration of the disputed domain name.

As regards the use in bad faith, the leading case (Telstra Corporation Limited v. Nuclear Marshmallows Case No. D2000-0003) states that passive holding of a domain name does not prevent a bad faith finding. In order to assess bad faith all the circumstances of the case must be considered. In this case, the facts suggest that the disputed domain name is also used in bad faith as it entirely contains the BOURSO trademark which is combined with the descriptive term "BANQUE". Therefore, it is hard to see how the disputed domain name could be used in a way that does not infringe the Complainant's trademark rights.

To the Panel's view the disputed domain name was registered and is used in order to attract Internet users seeking to reach Complainant's website or purchase its products and services. The disputed domain name in this case is passively held, but for no conceivably lawful use (*see also National Football League v. Thomas Trainer, D2006-1440 (WIPO December 29, 2006) <nflnetwork.com>*) holding that "when a registrant, such as respondent here, obtains a domain name that is [confusingly similar] to a famous mark, with no apparent rights or legitimate interests in the name, and then fails to respond to infringement claims and a UDRP Complaint, an inference of bad faith is warranted).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **bourso-banque.info**: Transferred

PANELLISTS

Name	Andrea Mascetti
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DATE OF PANEL DECISION 2022-12-28

Publish the Decision
