

Decision for dispute CAC-UDRP-105046

Case number	CAC-UDRP-105046
Time of filing	2022-12-07 09:02:44
Domain names	parrainage-boursorama.site

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	Domain Admin
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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 submitted evidence that it is the registered owner of the EU trademark registration No. 1758614 for "BOURSORAMA", applied for on 13 July 2000 and granted on 19 October 2001, for the classes 9, 16, 35, 36, 38, 41 and 42.

FACTUAL BACKGROUND

The Complainant grows in Europe with the emergence of e-commerce and the continuous expansion of the range of financial products online. The Complainant claims to be a pioneer and leader in its three core businesses, online brokerage, financial information on the Internet and online banking, having based its growth on innovation, commitment and transparency. In France, the Complainant is the online banking reference with over 4,3 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 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 was registered on 30 November 2022 and resolves to a parking page with commercial links.

The Registrar confirmed that the Respondent is the current registrant of the disputed domain name and that the language of the

registration agreement is English.

The Respondent has not filed a Response.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

The Complainant made the following contentions:

The Complainant states that the disputed domain name is confusingly similar to its trademark “BOURSORAMA” and its domain names associated. The Complainant asserts that the addition of the generic term “PARRAINAGE” is not sufficient to escape the finding that the disputed domain name is confusingly similar to the trademark “BOURSORAMA”. It is well-established that “a domain name that wholly incorporates a Complainant’s registered trademark may be sufficient to establish confusing similarity for purposes of the UDRP”.

Moreover, the Complainant contends that the addition of the suffix “.SITE” 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.

The Complainant further argues that it has made a prima facie case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant asserts that the Respondent is not identified in the Whois database as the disputed domain name. In addition, the Respondent is not known by the Complainant. The Complainant contends that the Respondent is not affiliated with nor authorized by the Complainant in any way. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant 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.

Moreover, the disputed domain name resolves to a parking page with commercial links. Past panels have found it is not a bona fide offering of goods or services or legitimate non-commercial or fair use (for example, Forum Case No. FA 970871 and WIPO Case No. D2007-1695).

Turning to the bad faith argument, the Complainant asserts that the disputed domain name includes the well-known and distinctive trademark “BOURSORAMA”. Besides, the addition of the term “PARRAINAGE”, meaning “SPONSORING” in French, cannot be coincidental, as it directly refers to the Complainant’s sponsorship program. Indeed, all the Google results of a search of the term “PARRAINAGE BOURSORAMA” refers to the Complainant. Consequently, the Complainant asserts that the Respondent must have known about the Complainant and its rights at the time of the registration of the disputed domain name.

Finally, the disputed domain name resolves to a parking page with commercial links. The Complainant contends the Respondent has attempted to attract Internet users for commercial gain to his own website thanks to the Complainant’s trademarks for its own commercial gain, which is evidence of 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

This is a proceeding pursuant to Paragraph 4 of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules") and the CAC Supplemental Rules.

Paragraph 15 of the Rules provides that the Panel shall decide the complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

According to Paragraph 4(a) of the Policy, a complainant must prove each of the following: (A) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; (B) the respondent has no rights or legitimate interests in respect of the domain name; (C) the domain name has been registered and is being used in bad faith.

1. Identical or confusingly similar domain name

The Complainant demonstrated that it owns the asserted EU trademark registration for the word mark "BOURSORAMA", which was registered long before the registration of the disputed domain name by the Respondent. It is well established that a nationally or regionally registered trademark confers on its owner sufficient rights to satisfy the requirement of having trademark rights for the purposes of standing to file a UDRP case. Therefore, the Panel finds that the Complainant has established such rights.

It is also well established that the generic top-level suffix may be disregarded when considering whether a disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights, as it is a necessary technical requirement of a domain name. This is true also for the so-called new generic top-level suffixes. Indeed, it has been repeatedly held in numerous UDRP cases that gTLDs such as ".online", ".site" and ".website" have no distinctive character (see for example CAC Cases No. 103323, 103114 and 102865) and would most likely be disregarded by web users, especially given that these words are descriptive for use on the Internet.

The disputed domain name incorporates the Complainant's trademark "BOURSORAMA" in its entirety. The additional word "PARRAINAGE" is generic, understandable to French speakers and descriptive particularly in the field in which the Complainant is active. With that in mind, the Panel agrees with the Complainant that adding this additional word to the Complainant's trademark is not sufficient to escape the finding that the disputed domain name is confusingly similar to the Complainant's trademark.

The Panel therefore finds that the disputed domain name is confusingly similar to the trademark in which the Complainant has rights.

2. Lack of rights or legitimate interests

The Respondent has not filed a Response and has neither provided any other information that would oppose the Complainant's allegations. Therefore, the Panel holds that the Complainant successfully presented its prima facie case that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

In particular, the Respondent is not in any way connected with the Complainant nor is it authorized to use the Complainant's trademark for its commercial activities. In addition, the Respondent is not commonly known by the disputed domain name pursuant to Paragraph 4(c)(ii) of the Policy. Furthermore, it was demonstrated by evidence submitted by the Complainant that the disputed domain name has not been used for a bona fide offering of goods or services or a legitimate non-commercial or fair use (because it resolves to a parking page with commercial links).

The Panel therefore finds that the Respondent has no rights or legitimate interest in the disputed domain name.

3. Registration and use of the disputed domain name in bad faith

With respect to the bad faith argument, the Complainant states, in summary: (a) that the disputed domain is confusingly similar to the Complainant's well-known trademark; (b) that the Respondent must have had actual knowledge of the Complainant's rights in its trademarks; and (c) that the disputed domain name resolves to a parking page with commercial links.

The Panel has already found that the disputed domain name is confusingly similar to the Complainant's trademark "BOURSORAMA". Although the Panel is not entirely convinced the Complainant's trademark has the well-known status for the purposes of trademark law assessment, that does not change the overall finding that the mere registration of a domain name which is confusingly similar to a trademark by an unaffiliated entity can lead to the presumption of bad faith, especially where the disputed domain name contains additional generic words that are highly common for the Complainant's field.

In addition, the Panel believes that the Complainant submitted evidence that sufficiently demonstrates the Respondent must have (or should have) been aware of the existence of the Complainant and its trademark.

Furthermore, typical circumstances demonstrating a respondent's bad faith include a situation where a respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location (see Paragraph 4(b)(iv) of the Policy). The fact that the disputed domain name resolves to a parking page with commercial links is a clear and rather typical sign of such bad faith behaviour.

Consequently, the Panel finds that the disputed domain name has been registered and has been used by the Respondent in bad faith.

In conclusion, the Panel finds that all three elements required by Paragraph 4(a) of the Policy were met and makes the following decision.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **parrainage-boursorama.site**: Transferred

PANELLISTS

Name	Vojtěch Chloupek
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DATE OF PANEL DECISION 2023-01-08

Publish the Decision