

Decision for dispute CAC-UDRP-104744

Case number	CAC-UDRP-104744
Time of filing	2022-07-22 09:22:28
Domain names	DeutscheBorseGroup.com

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)
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Complainant

Organization	Deutsche Börse AG
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Complainant representative

Organization	Grünecker Patent und Rechtsanwälte PartG mbB
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Respondent

Name	Babin Vsevolod
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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 proved to be the owner of the following trademarks:

- International trademark registration no. 917734 DEUTSCHE BÖRSE Group (&device) with priority of 18.08.2006 for international classes 9, 16, 35, 36, 41, 42, 45 with protection for CH, RU (however the Panel notes that the Complainant did not provide a complete extract of this trademark; the Complainant submitted only a synthetic extract of the TM VIEW database which included several trademarks including the IR no. 917734. This extract did not contain information on the designating parties. The Panel strongly suggests to the Complainant to provide complete extracts of the trademarks cited in the complaint).;
- German trademark registration no. 30648274 DEUTSCHE BÖRSE (&device) with priority of 4.8.2006 for international classes 36, 9, 16, 35, 38, 41, 42, 45;
- German trademark registration no 39404080 "Deutsche Börse" with priority of 29.11.1994 for international classes 36, 9, 16, 35, 42;

- EUTM no. 5276738 DEUTSCHE BÖRSE (&device) with priority of 04.08.2006 for international classes 9,16,35,36,38,41,42;

- EUTM no. 000886481 "DEUTSCHE BÖRSE" with priority of 24.07.1998 for international classes 9,16,35,36,42.

FACTUAL BACKGROUND

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

The Complainant is a German based company active in the banking and financial fields.

The Complainant owns numerous trademark registrations for DEUTSCHE BÖRSE effective, among the others, in the EU, in China and in Russia.

The Complainant's company name is Deutsche Börse AG and the Complainant owns the domain name <https://www.deutsche-boerse.com/> that hosts its official website.

the domain name <DeutscheBorseGroup.com> is currently inactive and, according to the information provided by the Registrar, it is owned by Babin Vsevolod and was registered on April 7, 2022.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

PARTIES' CONTENTIONS:

COMPLAINANT:

As regards the first element of the Policy, the Complainant supports that the disputed domain name is confusingly similar to the "DEUTSCHEBORSE" trademarks. The addition of the element "GROUP" does not impact on the confusingly similarity assessment in view of its dictionary meaning.

As regards the second element of the Policy, the Complainant denies that the Respondent has been authorized to use the trademark "DEUTSCHEBORSE" " in the disputed domain name. Moreover, according to the Complainant, the disputed domain name is not used to offer bona fide goods and services or in a legitimate non-commercial or fair manner.

As regards the third element of the Policy, the Complainant supports that the disputed domain name is registered and used in 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

1. The disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

The disputed domain name is confusingly similar to the Complainant's registered trademark as it wholly incorporates the sign DEUTSCHE BORSE (see *Six Continent Hotels, Inc. v. The Omnicorp*, WIPO Case No. 2005-1249 and *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. D2001-0903).

The addition of the element "GROUP" increases rather than excludes the risk of confusion for the public. In the Panel's view "GROUP" could be easily associated to the Complainant and its affiliated companies.

Furthermore, the addition of ".com" is generally disregarded in view of its technical function.

As a consequence, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademarks, for the purposes of the First Element of the Policy.

2. The Respondent lacks rights or legitimate interests in the disputed domain name.

The Respondent has not submitted a response to the Complaint. Therefore, it has filed no information on possible rights or legitimate interests it might hold on <deutscheborsgroup.com>. On its part, the Complainant has submitted information and arguments which, according to the Panel, are sufficient to conclude that the Respondent has no rights or legitimate interest in the disputed domain name.

According to the information provided by the Complainant, and not contested, the Respondent is not commonly known by the disputed domain name nor he has been authorized to use the Complainant's trademark.

Currently the disputed domain name links to an inactive past. In the recent past, <deutscheborsgroup.com> redirected to the Complainant's official website (as proved by the Complainant's annexes). Furthermore, the Complainant proved that an e-mail address related to the disputed domain name (info@deutscheborsgroup.com) was used to send job offers on behalf of the Complainant. This fake document reproduces the Complainant's trademark and the signature of Mr. Theodor Weimer, CEO of Deutsche Borse AG. Such use is far from being legitimate for the purposes of the 2 element of the UDRP. To the Panel's view, the Respondent attempted to impersonate himself as the Complainant in order to obtain information by the users or other scam activities.

For these reasons, the Panel takes the view that the Respondent lacks rights or legitimate interests in the disputed domain name for the purposes of the Policy.

3. The disputed domain name has been registered and is being used in bad faith.

The Respondent was clearly aware of the Complainant's business and trademark at the time of the registration of the disputed domain. As a matter of fact, <deutscheborsgroup.com> was used to send fake email addresses, fake job offers and employment agreements, to convince job seekers that they are being recruited e.g. as "Junior Trade Operating Officer" by the Complainant.

Moreover, the disputed domain name was registered well after the Complainant registered its "DEUTSCHEBORSE" trademarks.

These circumstances are sufficient to conclude that the disputed domain name was registered in bad faith.

To the Panel's view also the use of the disputed domain name is in bad faith. The Complainant proved that the disputed domain name was used in a scam scheme: the Respondent falsely acted as the Complainant in order to send e-mails and job offers to the relevant public. It is very probable that the Respondent intended to obtain confidential information from the recipients or commit frauds. Such use is clearly in bad faith.

All above considered the Panel finds the evidence submitted as sufficient to prove use and registration in bad faith of the disputed domain name for the purposes of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **DEUTSCHEBORSEGROUP.COM**: Transferred

PANELLISTS

Name	Andrea Mascetti
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DATE OF PANEL DECISION 2022-08-22

Publish the Decision
