

Decision for dispute CAC-UDRP-105070

Case number CAC-UDRP-105070

Time of filing 2022-12-20 08:49:30

Domain names brma-support.com

Case administrator

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

Complainant

Organization BOURSORAMA SA

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Name Patrick Legoff

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 several trademark registrations inter alia the EU trademark registration No. 1758614 "BOURSORAMA", registered on October 19, 2001 (hereinafter referred to as the "Trademark").

FACTUAL BACKGROUND

The Complainant is a French company, founded in 1995, which became a leader in its three core businesses, i.e. online brokerage, financial information on the Internet and online banking as 'Boursorama Banque'.

The Complainant provides information on its products online inter alia at <boursorama.com>, but has also registered the domain names <brma-info.com>, <brma-login.com> and <brsma-client.com>.

The disputed domain name <brma-support.com> was registered on November 9, 2022 and redirects to a parking page with commercial links. However, the domain name was used to impersonate the Complainant and has been used for phishing purposes.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant contends that the disputed domain name is confusingly similar to the Trademark with the argument that "BRMA" is the abbreviation of the Trademark. "BRMA" is not a dictionary word, meaning that "BRMA" is the main and most obviously recognizable source identification element of the disputed domain name. The use of an abbreviation of the trademark does not in the circumstances of this case sufficiently distinguish the resulting domain name from the Complainant's trademark nor avoids confusing similarity between Complainant's trademark and the disputed domain name.

Furthermore, the Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. In this regard, the Complainant states that the Respondent is not commonly known by the disputed domain name, that it is not affiliated with nor authorized by the Complainant in any way, that the Complainant does not carry out any activity for, nor has any business with the Respondent, and that neither license nor authorization has been granted to the Respondent to make any use of the Trademark or apply for registration of the disputed domain name by the Complainant.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. It contends that the Respondent must have been aware of the Complainant and its Trademark at the time of registration of the disputed domain name and that the Respondent's use of the disputed domain name to impersonate the Complainant for consumer fraud purposes is evidence of bad faith.

RESPONDENT:

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

Under paragraph 4(a) of the Policy, the Complainant must prove that each of the following three elements is present:

- (i) the disputed domain name is identical or confusingly similar to the Complainant's trademark; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

1. Based on the evidence submitted, the Panel finds that the disputed domain name is confusingly similar to the Trademark. The Panel accepts that when a domain name consists of an abbreviation of a well-known trademark, confusing similarity can be found

under paragraph 4(a)(i) of the Policy. The disputed domain name in the present case contains the letters “brma”, an abbreviation of the Complainant’s trademark. It further adds the generic word “support”, which can be argued that enhances the confusing similarity since a connection to a banking client support can be easily made. Thus, the Trademark is recognizable in the abbreviation thereof and cumulatively with the fact that the Respondent has engaged in a fraudulent e-mail scheme, as discussed more fully below, it appears that the Respondent has created the disputed domain name specifically for its value of being confused with the Complainant’s Trademark.

2. The Complainant has substantiated that the Respondent has no rights or legitimate interests in the disputed domain name. The Panel finds that the Complainant has fulfilled its obligations under paragraph 4(a)(ii) of the Policy. The Respondent did not deny these assertions in any way and therefore failed to prove any rights or legitimate interests in the disputed domain name.

3.1 The Panel is satisfied that the Respondent registered the disputed domain name with full knowledge of the Complainant and its rights in the Trademark as the Trademark is well-known.

3.2 Furthermore, the Panel accepts the Complainant’s contentions that the disputed domain name has been used in bad faith. Given the circumstances of the case including the evidence on record, the Respondent has engaged in a fraudulent e-mail scheme in order to deceive Complainant’s customers. Where, as here, there is a conspicuous attempt to imitate a significant domain name, and consequent risk of consumer fraud via e-mail, which fraud does not require an active webpage (as Respondent has only parked the disputed domain name) and may be difficult to detect before harm is inflicted, it is appropriate to attach extra significance to Respondent’s silence. Such conduct is deceptive, illegal, and the Panel accepts that it is evidence of registration and use in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **brma-support.com**: Transferred

PANELLISTS

Name	Stefanie Efstathiou LL.M. mult.
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DATE OF PANEL DECISION **2023-01-20**

Publish the Decision
