

Decision for dispute CAC-UDRP-105138

Case number	CAC-UDRP-105138
Time of filing	2023-01-19 09:51:14
Domain names	boursoramam.com, boursormama.com

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
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Complainant

Organization	BOURSORAMA
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Complainant representative

Organization	NAMESHIELD S.A.S.
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Respondent

Name	Jiri Capcuch
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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 names.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the following European Union registered trademark:

BOURSORAMA, word mark, registered on October 19, 2001 under number 1758614, for goods and services in Nice Classes 9, 16, 35, 36, 38, 41 and 42.

FACTUAL BACKGROUND

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

The Complainant is a financial institution which is the owner of the BOURSORAMA trademark. Under such mark, it engages in its three core businesses of online brokerage, delivery of financial information on the Internet and online banking. The Complainant asserts that it operated the first national financial and economic information site and the first online banking platform in France. It has a portal at "www.boursorama.com", and claims over four million customers. The Complainant owns a number of domain names incorporating the BOURSORAMA mark, including <boursorama.com>, registered since March 1, 1998.

The disputed domain names were registered on January 13, 2023 and resolve to parking pages with commercial links.

PARTIES CONTENTIONS

Complainant:

The disputed domain names are confusingly similar to the Complainant's trademark and associated domain names. The obvious misspellings are characteristic of typosquatting practice intended to create confusing similarity with the Complainant's trademark, namely the addition of a letter "m" at the end of the disputed domain name <boursoramam.com> and the deletion of the letter "a" replaced by the term "mama" at the end of the disputed domain name <boursormama.com>. The addition of the gTLD suffix ".com" is insufficient to escape this finding.

The Respondent has no rights or legitimate interests in the disputed domain names. It is not commonly known as the disputed domain names and the Whois information is not similar thereto. The Respondent has no rights or legitimate interests in respect of the disputed domain names, nor is related in any way to the Complainant. The Complainant has no business with the Respondent, and no license or authorization has been granted to the Respondent to make any use of the Complainant's trademark, including in the disputed domain names. The Respondent is not using the disputed domain names for a bona fide offering of goods or services, or a legitimate noncommercial or fair use. The disputed domain names are used in connection with pay-per-click websites diverting traffic to third party websites not affiliated with the Complainant. Such use of a domain name to host competing hyperlinks or to redirect Internet users to websites unrelated to a complainant does not represent a bona fide offering of goods or services where it competes with or capitalizes on the reputation and goodwill of the Complainant's mark or otherwise misleads Internet users.

The disputed domain names were registered and are being used in bad faith. They each contain the Complainant's distinctive and well-known trademark, such that the Respondent must have known about the Complainant and its rights when it registered them. The disputed domain names resolve to parking pages with commercial links. The Respondent has attempted to attract Internet users for commercial gain to its own website due to the Complainant's trademarks, for commercial gain, which 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 names are 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 names (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 names have been registered and are 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

The Complainant has demonstrated that the disputed domain names contain typographical variants of the Complainant's BOURSORAMA mark. The disputed domain name <boursoramam.com> merely adds the letter "m" to the Complainant's trademark at the end of the Second-Level Domain. The disputed domain name <boursormama.com> merely inserts an additional letter "m" after the letter "r" in the Complainant's trademark, within the Second-Level Domain.

The fact that the disputed domain names contain minor typographical variants of the Complainant's mark does not avoid a finding of confusing similarity under the Policy. A domain name consisting of a common, obvious, or intentional misspelling of a trademark is

usually considered by panels to be confusingly similar to the relevant mark for the purposes of the first element due to the fact that it contains sufficiently recognizable aspects of such mark. In the present case, the Complainant’s distinctive BOURSORAMA trademark is recognizable in each of the disputed domain names and the additional letters are insufficient to remove the overall impression made upon the public. The generic Top-Level Domain “.com” in each of the disputed domain names may be disregarded in the assessment on the grounds that it is merely required for technical reasons.

The Complainant has established a prima facie case that the Respondent does not have rights or legitimate interests in either of the disputed domain names to the Panel’s satisfaction by reference to its submissions that the Respondent is not commonly known by the disputed domain names, has no business with the Complainant, and possesses neither license nor authorization to make any use of the Complainant’s BOURSORAMA trademark, or to apply for registration of the disputed domain names. The Complainant also contends that the disputed domain names are a typographical variant of its well-known mark, and that each resolves to a parking page featuring third party pay-per-click advertising links. The Panel accepts the Complainant’s submission that the use of such advertising links, given that they capitalize on the trademark value of the Complainant’s mark, cannot confer rights or legitimate interests upon the Respondent within the meaning of the Policy.

The Respondent failed to rebut the Complainant’s prima facie case in that it did not file any Response. There are no surrounding facts or circumstances tending to show that the Respondent may otherwise have rights or legitimate interests in the disputed domain names. It is therefore reasonable in the circumstances for the Panel to find that the Respondent has no such rights or legitimate interests therein.

The Panel considers that the Complainant has successfully made out a case of registration and use in bad faith in respect of each of the disputed domain names. The Complainant’s distinctive trademark is present in each of the disputed domain names, coupled with additional letters producing minor typographical variants, such as might be mistyped by an Internet user. This strongly suggests, in the absence of submissions and evidence to the contrary, that the Respondent had knowledge of the Complainant and its mark at the time when the disputed domain names were registered.

The disputed domain names are being used to promote confusion by their close similarity in appearance to, and as typographical variants of, the Complainant’s mark. Given that the Respondent’s associated websites feature pay-per-click links of a generally financial aspect, thereby apparently keyed to the Complainant’s line of business, the Panel considers that it is also probable that the Respondent is using the disputed domain names in order to maximize the traffic to said websites. The corresponding advertising impressions arising from Internet users mistyping the Complainant’s own domain name would, in turn, maximize the Respondent’s click-through revenue. In all of these circumstances, the Panel considers that it is appropriate to make a finding of registration and use in bad faith in terms of paragraph 4(b)(iv) of the Policy, as the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its websites by creating a likelihood of confusion with the Complainant’s mark as to source, sponsorship, affiliation, or endorsement of its website.

The Respondent has not replied to the Complainant’s allegations of bad faith registration and use, and has advanced no explanation suggesting that its actions regarding the disputed domain names should be considered to be in good faith. The Panel has not been able to identify any conceivable good faith explanation which the Respondent might have tendered in this case that would have avoided the present finding of registration and use in bad faith in accordance with the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **boursoramam.com**: Transferred
- 2. **boursormama.com**: Transferred

PANELLISTS

Name	Andrew Lothian
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DATE OF PANEL DECISION	2023-02-15
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Publish the Decision