

Decision for dispute CAC-UDRP-105244

Case number **CAC-UDRP-105244**

Time of filing **2023-03-01 09:45:59**

Domain names **mabanqueenligneboursorama.com**

Case administrator

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

Complainant

Organization **BOURSORAMA**

Complainant representative

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

Respondent

Name **Karim Lahcen**

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

EU trademark BOURSORAMA n°001758614 registered since October 19, 2001

FACTUAL BACKGROUND

In France, BOURSORAMA is the online banking reference with over 4,7 million customers.

The disputed domain name was registered on February 26, 2023 and resolves to an inactive page.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.

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

FIRST CONDITION

The disputed domain name literally means "my online bank boursorama".

Not only does it comprise entirely the Complainant's trademark ("boursorama"), but the generic terms that have been added to the trademark directly refer to the (well-known) activity of the Complainant, which increases the risk of confusion.

SECOND CONDITION

The Complainant asserts, without being contradicted by the Respondent who chose not to reply, that:

- The Respondent is not identified in the Whois database as the disputed domain name;
- The Respondent is not known by the Complainant; and
- The Respondent is not affiliated with, nor authorized by, the Complainant in any way.

Neither license nor authorization has been granted to the Respondent to make any use of the Complainant's

Under these circumstances, the Panel considers that the Respondent apparently does not have any right or legitimate interest in the name or, at the very least, has not bothered to explain any legitimate project that he pursues while all factual appearances are against him.

THIRD CONDITION

The Complainant asserts, without being contradicted by the Respondent who chose not to reply, that the disputed domain name resolves to an error page.

However, the Panel considers that this element, although potentially indicative of bad faith, is not decisive if it is considered alone: there may be several legitimate explanations for the existence of an error page (or an inactive site). This is especially true given that the domain name was registered recently, so it is possible that the error page is caused by factors other than the Respondent's bad faith.

However, this element is not alone; notably:

- The Respondent is from France, where the Complainant is principally active and extremely well known;
- By registering a domain name that includes the Complainant's trademark to which generic terms directly related to the Complainant's activity have been added, the Respondent implicitly acknowledges that he is/was aware of the Complainant's existence.

These elements shed a different light on the case because if it is totally improbable that the registration resulted from a coincidence and can only be explained by the Respondent's knowledge of the existence of the Complainant and its activity, an error page or an inactive site have been considered as indicators of bad faith especially if the Respondent does not bother to provide any sort of explanation. See WIPO overview of UDRP question, V 3.0, [question 3.3](#) : *"While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put."*

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **mabanqueenligneboursorama.com**: Transferred

PANELLISTS

Name	Mr. Etienne Wéry
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DATE OF PANEL DECISION 2023-04-04

Publish the Decision