

Decision for dispute CAC-UDRP-105260

Case number **CAC-UDRP-105260**

Time of filing **2023-03-07 06:09:01**

Domain names **contactclientgestionboursos.com, evaluationdesetapesboursos.com,
traitementdossiersboursos.com**

Case administrator

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

Complainant

Organization **BOURSORAMA**

Complainant representative

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

Respondent

Name **Marouane Med**

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 registered owner of the French trademark registration no. 3009973 "BOURSO", registered on July 28, 2000, for various goods and services in classes 9, 16, 35, 36, 38, 41, and 42 (hereinafter referred to as the "Trademark").

FACTUAL BACKGROUND

The Complainant is a French financial service provider, which was founded in 1995 and today has 4.7 million customers in France. It provides its services and information online at <boursorama.com>. The Complainant also owns the domain name <boursos.com>, which was registered on January 11, 2000.

The disputed domain names were registered on February 28, 2023, and are not used in connection with active websites.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant argues that the disputed domain names are confusingly similar to the Trademark since they include the Trademark entirely. The addition of the French generic terms "contact client gestion" (meaning "customer contact management"), "évaluation des étapes" (meaning "stage evaluation"), and "traitement dossiers" (meaning "file processing") does not prevent confusion between the disputed domain names and the Trademark. Moreover, the Complainant contends that the TLD ".com" does not prevent confusion either.

The Complainant also claims that the Respondent does not have any rights or legitimate interest regarding the disputed domain names. The Complainant argues that the Respondent is not commonly known by the disputed domain names, not known to the Complainant, not affiliated or authorized by the Complainant, and has not been granted any license or authorization to use the Trademark or to register the disputed domain names. Furthermore, the (non-)use of the disputed domain names does not constitute any rights or legitimate interest in favor of the Respondent.

Regarding bad faith, the Complainant states that the disputed domain names were registered and are being used in bad faith. Concerning bad faith registration, it argues that the disputed domain names are confusingly similar to the well-known Trademark, and it is reasonable to infer that the Respondent registered the domain names with full knowledge of the Trademark. The Complainant also argues that the addition of several French generic terms related to customer support cannot be coincidental, as it may create confusion in the Complainant's customers' minds.

Regarding bad faith use, the Complainant contends that the Respondent has not demonstrated any activity in respect of the disputed domain names, and that it is not possible to conceive of any plausible actual or contemplated active use of the domain names by the Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant's rights under trademark law. Finally, the Complainant refers to prior decisions under the UDRP, stating that the incorporation of a famous mark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use.

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

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

- (i) the disputed domain names are 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 names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

1. The Panel accepts that the disputed domain names are confusingly similar to the Trademark. It is well established that a domain name that wholly incorporates a trademark may be confusingly similar to such a trademark for purposes of the Policy despite the addition of generic terms, such as "contact client gestion", "evaluation des etapes", or "traitement dossiers".

2. The Complainant has substantiated that the Respondent has no rights or legitimate interests in the disputed domain names. 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 names. Based on the evidence on file, the Panel cannot find any rights or legitimate interests of the Respondent either, as the disputed domain names are not actively used. Accordingly, the Panel finds that the Complainant has proven that the Respondent has no rights or legitimate interests in respect of the disputed domain names under paragraphs 4(a)(ii) and 4(c) of the Policy.

3. The Panel is satisfied that the Respondent registered the disputed domain names with full knowledge of the Complainant and its well-established rights in the Trademark. This finding is supported by the fact that the disputed domain names all include generic French terms and, therefore, deliberately target the Complainant.

Furthermore, the Panel accepts the Complainant's contentions that the disputed domain names have been used in bad faith under the principles of passive holding. It is the consensus view that the lack of active use of a domain name does not, as such, prevent a finding of bad faith under the Policy. In such cases, the panel must examine all the circumstances of the case to determine whether a respondent is acting in bad faith. Examples of circumstances that can indicate bad faith include a complainant having a well-known trademark, no response to the complaint, the respondent's concealment of identity, and the impossibility of conceiving a good faith use of the domain name (cf *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. D2000-0003; *Jupiters Limited v. Aaron Hall*, WIPO Case No. D2000-0574; *Ladbroke Group Plc v. Sonoma International LDC*, WIPO Case No. D2002-0131). The Panel is convinced that the Trademark is well-established. Furthermore, the Respondent failed to file a Response and, therefore, did not provide evidence of any actual or contemplated good-faith use of the disputed domain names. In the view of the Panel, the facts of this case do not allow for any plausible actual or contemplated active use of the disputed domain names by the Respondent in good faith. The Panel is therefore convinced that, even though the disputed domain names have not yet been actively used, the Respondent's non-use of the disputed domain names equals 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. **contactclientgestionbourso.com**: Transferred
2. **evaluationdesetapesbourso.com**: Transferred
3. **traitementdossiersbourso.com**: Transferred

PANELLISTS

Name	Peter Müller
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DATE OF PANEL DECISION	2023-04-12
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Publish the Decision
