

Decision for dispute CAC-UDRP-105310

Case number	CAC-UDRP-105310
Time of filing	2023-03-28 09:14:25
Domain names	espaceboursorama.com

Case administrator

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

Complainant

Organization	BOURSORAMA SA
--------------	---------------

Complainant representative

Organization	NAMESHIELD S.A.S.
--------------	-------------------

Respondent

Name	Ibraaa calle
------	--------------

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 is inter alia the owner of:

European Union trademark BOURSORAMA reg. no. 001758614, registered on October 19, 2001.

The Complainant also owns a number of domain names that include the same distinctive wording BOURSORAMA, such as the domain name <boursorama.com>, registered since March 1, 1998.

FACTUAL BACKGROUND

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

The Complainant is active in online brokerage, providing financial information on the internet, and online banking.

In France, BOURSORAMA is the leading online banking service with over 4.7 million customers. The portal www.boursorama.com is France's principal national financial and economic information site and was the first French online banking platform.

The Complainant has proven to be the owner of the BOURSORAMA mark.

The disputed domain name was registered on March 23, 2023 and resolves to an error page.

The Complainant's trademark and domain name registrations predate the registration of the disputed domain name.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant contends that the disputed domain name is confusingly similar to the BOURSORAMA trademarks, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name has been registered and is being used in 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

1. A) Confusing similarity

The disputed domain name contains the Complainant's registered trademark BOURSORAMA with the addition of the French term "espace" (space in English).

This Panel agrees with the Complainant's view that the addition of the term "espace" is not sufficient to escape the finding that the domain name is confusingly similar to the trademark BOURSORAMA.

B) Lack of legitimate rights or interests

The disputed domain name is a distinctive, non-descriptive name. It is unlikely that the Respondent registered the

disputed domain name without having the Complainant firmly in mind. The Complainant's assertions that the Respondent is not commonly known by the disputed domain name and is not affiliated with nor authorized by the Complainant are sufficient to constitute a prima facie demonstration of the absence of rights or legitimate interests in the disputed domain name on the part of the Respondent. The burden of evidence therefore shifts to the Respondent to show, using tangible evidence, that it does have rights or legitimate interests in the disputed domain name. The Respondent has made no attempt to do so.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

C) Registered or Used in Bad Faith

The Complainant gives sound bases for its contention that the disputed domain name was registered and has been used in bad faith.

Firstly, owing to the distinctiveness of the Complainant's trademark and reputation, it is reasonable to infer that the Respondent registered the disputed domain name with full knowledge of the Complainant's trademark, and so the Panel finds on the balance of probabilities that the Respondent was aware of the Complainant's trademark when registering the disputed domain name.

Secondly, the Panel accepts the Complainant's unchallenged assertion that the Respondent registered the disputed domain name with the aim of creating a likelihood of confusion with the Complainant's trademark.

Thirdly, it appears that the Respondent is passively holding the disputed domain name. This Panel agrees with the Complainant's and previous panels' view that the incorporation of a famous trademark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use. Fourthly, the Respondent has not responded to nor denied any of the assertions made by the Complainant in this proceeding.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **espaceboursorama.com**: Transferred

PANELLISTS

Name	Fabrizio Bedarida
------	--------------------------

DATE OF PANEL DECISION **2023-04-21**

Publish the Decision
