

Decision for dispute CAC-UDRP-105297

Case number	CAC-UDRP-105297
Time of filing	2023-03-24 08:46:24
Domain names	activepartnersbourso.com, centredemiseajourbourso.com, excecutivespacebourso.com

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (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	Ryad Hadjeb
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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 registered owner of national French trademark registration <BOURSO> registered with Nr. 3009973 on February 22, 2000 for goods and services in classes 9, 35, 36 38, 41 and 42. This mark is in force.

FACTUAL BACKGROUND

The Complainant was founded in 1995 and is active in the field of online brokerage, online financial information and online banking with more than 4,7 million customers.

The Respondent registered the three disputed domain names on March 20, 2023.

It results from the Complainant's documented allegations that the disputed domain names resolve to an error page.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain names 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 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

1.
The Panel finds that the disputed domain names are confusingly similar to the Complainant's trademark.

The Complainant's French trademark <BOURSO> registered with Nr. 3009973 on February 22, 2000 is identically included and recognizable in all three disputed domain names.

2.
In the absence of any response, or any other information from the Respondent indicating the contrary, the Panel further holds that the Complainant successfully presented its prima facie case and that the Respondent has no rights or legitimate interests in respect of the disputed domain names.

In particular, the Respondent is not affiliated with nor authorized by the Complainant in any way, and it is not related to the Complainant's business. In addition, the Panel does not dispose of any elements that could lead the Panel to the conclusion that the Respondent is commonly known by the disputed domain names or that it has acquired trademark rights pursuant to paragraph 4(c)(ii) of the Policy. Finally, no content is displayed on the website to which the disputed domain names resolve. Such use can neither be considered a bona fide offering of goods or services nor a legitimate noncommercial or fair use of the disputed domain names, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue in the sense of paragraph 4(c)(i) and (iii) of the Policy. In addition, the Respondent's concealment of its identity behind a privacy service is also taken in consideration, and this Panel finds that it is most likely that the Respondent selected the disputed domain names with the intention to take advantage of the Complainants' registered trademark by registering domain names consisting of that trademark with the intent to attract Internet users for commercial gain.

3.
Finally, the Panel finds that the disputed domain names have been registered and are being used in bad faith.

According to the Complainants' undisputed allegations, the Respondent does not actively use the disputed domain names. With comparative reference to the circumstances set out in paragraph 4(b) of the Policy deemed to establish bad faith registration and use, prior UDRP panels have found that the apparent lack of active use (e.g., to resolve to a website) of a domain name without any active attempt to sell or to contact the trademark holder (passive holding), does not as such prevent a finding of bad faith (see *Actelion Pharmaceuticals, Ltd v. Whois Agent, Whois Privacy Protection Service, Inc / Jean-Paul Clozel*, WIPO Case No. D2016-0068; *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. D2000-0003).

In the case at hand, the Panel finds that the further circumstances surrounding the registration - listed hereinafter - suggest that the Respondent was aware that it has no rights or legitimate interests in the disputed domain names, and that the disputed domain names have been registered and are being used in bad faith (see Actelion Pharmaceuticals, Ltd v. Whois Agent, Whois Privacy Protection Service, Inc / Jean-Paul Clozel, supra; America Online, Inc. v. Antonio R. Diaz, WIPO Case No. D2000-1460):

- (1) Disputed domain names combining the Complainant's entire trademark with descriptive terms - in particular French generic terms related to customer support -, which can be associated to the Complainant's activities,
- (2) Respondent's failure to reply to the Complaint,
- (3) Respondent hiding its identity behind a privacy shield,
- (4) Complainant's registered trademark has existed for more than twenty years,
- (5) No plausible legitimate active use that the Respondent could make of the disputed domain names.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **activepartnersbourso.com**: Transferred
2. **centredemiseajourbourso.com**: Transferred
3. **executivespacebourso.com**: Transferred

PANELLISTS

Name	Tobias Malte Müller
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DATE OF PANEL DECISION 2023-05-03

Publish the Decision
