

Decision for dispute CAC-UDRP-105348

Case number	CAC-UDRP-105348
Time of filing	2023-04-12 09:42:35
Domain names	bourso-reinformation.com, fr-boursorama-controle.com, support-boursoclient.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	Adron D. Lilly
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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 several trademarks including the terms "BOURSO" and "BOURSORAMA" such as the trademark BOURSO® n°3009973 registered on February 22, 2000 and the European trademark BOURSORAMA® n°001758614 registered since October 19, 2001.

FACTUAL BACKGROUND

BOURSORAMA (the Complainant) grows in Europe with the emergence of e-commerce and the continuous expansion of the range of financial products online. Pioneer and leader in its three core businesses, online brokerage, financial information on the Internet and online banking, BOURSORAMA based its growth on innovation, commitment and transparency. In France, BOURSORAMA is the online banking reference with over 4,7 million customers.

The disputed domain names were registered on April 5, 2023 and are inactive.

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).

The addition of the French generic terms "REINFORMATION", "FR" (meaning France), "CONTROLE", "SUPPORT" or "CLIENT", is not sufficient to escape the finding that the disputed domain names are confusingly similar to the trademarks BOURSORAMA® and BOURSO®. It is well-established that "a domain name that wholly incorporates a Complainant's registered trademark may be sufficient to establish confusing similarity for purposes of the UDRP". Please see WIPO Case No. D2003-0888, Dr. Ing. h.c. F. Porsche AG v. Vasiliy Terkin.

Moreover, the addition of the suffix ".COM" does not change the overall impression of the designations as being connected to the trademarks BOURSORAMA® and BOURSO®. It does not prevent the likelihood of confusion between the disputed domain names and the Complainant, its trademark and its domain names associated. Please see WIPO Case No. D2006-0451, F. Hoffmann-La Roche AG v. Macalve e-dominios S.A. ("It is also well established that the specific top level of a domain name such as ".com", ".org" or ".net" does not affect the domain name for the purpose of determining whether it is identical or confusingly similar.").

Finally, the Complainant's rights over the terms "BOURSORAMA" and "BOURSO" have been confirmed by previous panels

- WIPO Case No. D2022-3717, Boursorama S.A. v. Navez <mon-compte-boursorama.com>;
- CAC Case No. 104433, BOURSORAMA SA v. 1337 Services LLC <fr-boursorama.com>;
- WIPO Case No. D2022-3936, BOURSORAMA S.A. v. Laetitia Dramais, bourso pret immo <boursopret-immo.com>; and
- CAC Case No. 104986, BOURSORAMA SA v. Didier Jore <supportbourso.com>.

Thus, the disputed domain names are confusingly similar to the Complainant's trademarks.

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).

According to the WIPO Case No. D2003-0455, Croatia Airlines d.d. v. Modern Empire Internet Ltd., the Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a) (ii) of the Policy.

The Respondent is not known as the disputed domain names. Past panels have held that a Respondent was not commonly known by a disputed domain name if the Whois information was not similar to the disputed domain name. Please see for instance Forum Case No. FA 1781783, Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group <bobsfromsketchers.com> ("Here, the WHOIS information of record identifies Respondent as "Chad Moston / Elite Media Group." The Panel therefore finds under Policy 4(c)(ii) that Respondent is not commonly known by the disputed domain name under Policy 4(c)(ii).").

The Respondent is not known by the Complainant. The Respondent is not affiliated with nor authorized by the Complainant in any way. The Complainant contends that Respondent has no rights or legitimate interests in respect of the disputed domain names. The Complainant does not carry out any activity for, nor has any business with the Respondent.

Neither license nor authorization has been granted to the Respondent to make any use of the Complainant's trademarks BOURSORAMA® and BOURSO®, or apply for registration of the disputed domain names.

Moreover, the disputed domain names are inactive. The Respondent did not make any use of disputed domain names, and it confirms that Respondent has no demonstrable plan to use the disputed domain names. It proves a lack of legitimate interests in respect of the disputed domain names except in order to create a likelihood of confusion with the Complainant and its trademark.

Accordingly, Respondent has no rights or legitimate interests on the disputed domain names.

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).

The disputed domain names include the well-known and distinctive trademarks BOURSORAMA® and BOURSO® as confirmed with the decisions:

- CAC Case No. 101131, BOURSORAMA v. PD Host Inc - Ken Thomas ("In the case at hand, the Respondent acted in bad faith especially because the Respondent, who has no connection with the well-known "BOURSORAMA" trademark, registered a domain name, which incorporates the well-known "BOURSORAMA" trademark and it is totally unrealistic [sic] to believe that the Respondent did not know the Complainant's trademark when registered the domain name <wwwboursorama.com>.");
- WIPO Case No. D2022-4646 Boursorama S.A. v. Ibraci Links, Ibraci Links SAS ("On the balance of the probabilities, the Panel determines that Respondent was aware of Complainant and its BOURSO trademark, and targeted that mark when registering the Domain Name [...] As discussed above, Complainant's BOURSO mark is well established").

Besides, the addition of several French generic terms related to customer support cannot be coincidental, as it may create a confusion in the BOURSORAMA customers' minds.

On those facts, given the distinctiveness of the Complainant's trademarks and reputation, it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's trademarks. See for instance WIPO Case No. D2004-0673, Ferrari S.p.A v. American Entertainment Group Inc.

Moreover, the disputed domain names are inactive. The Respondent has not demonstrated any activity in respect of the disputed domain names, and 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.

As prior WIPO UDRP panels have held, the incorporation of a famous mark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use:

- WIPO Case No. D2000-0003, Telstra Corporation Limited v. Nuclear Marshmallows;
- WIPO Case No. D2000-0400, CBS Broadcasting, Inc. v. Dennis Toeppen.

On these bases, the Respondent has registered and is using the disputed domain names in bad faith.

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

Given the distinctiveness of the Complainant's trademarks and reputation, it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's trademarks. Please see for instance WIPO Case No. D2004-0673, Ferrari S.p.A v. American Entertainment Group Inc.

Moreover, the disputed domain names are inactive. The Respondent has not demonstrated any activity in respect of the disputed domain names, and 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.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **bourso-reinformation.com**: Transferred
 2. **fr-boursorama-controle.com**: Transferred
 3. **support-boursoclient.com**: Transferred
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PANELLISTS

Name Thomas Hoeren

DATE OF PANEL DECISION 2023-05-09

Publish the Decision
