

Decision for dispute CAC-UDRP-105368

Case number	CAC-UDRP-105368
Time of filing	2023-04-19 08:44:43
Domain names	bonnegestionboursosupp.com, consolidationdesaccboursos.com, determinationboursoperso.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	Rachel Monto
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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 prior trademark BOURSO® #3009973 registered with the National Institute of Industrial Property of France on 22 February 2000.

The Complainant also owns a number of domain names, including the same distinctive wording BOURSORAMA®, such as the domain name <boursorama.com>, registered since 1 March 1998 and <boursos.com>, registered since 11 January 2000.

FACTUAL BACKGROUND

The Complainant, BOURSORAMA, 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 portal www.boursorama.com is the first national financial and economic information site and first French online banking platform.

The Respondent is based in France.

The disputed domain names were registered on 14 April 2023.

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 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).

First, the Complainant claims rights in the BOURSO mark through its trademark registration. By virtue of its trademark registrations, Complainant has proved that it has rights in the mark under paragraph 4(a) of the Policy. See Avast Software s. r. o. v Milen Radumilo, 102384, (CAC 2019-03-12). The Panel further agrees that Complainant's rights over the term "BOURSO" have been confirmed by previous panels, see BOURSORAMA SA v. Didier Jore, 104986 (CAC 2022-12-15).

Second, the Complainant states that the disputed domain names include Complainant's BOURSO mark in its entirety and the addition of the generic terms "bonne gestion" (which means "good management"), "supp" (which means "additional"), "consolidation des acc" (which means "asset consolidation"), "determination" (which means "determination"), "perso" (which means "personal") are not sufficient to escape the finding that the disputed domain names are confusingly similar to the trademark BOURSO®. Moreover, the Complainant contends that the addition of the gTLD suffix ".COM" does not change the overall impression of the designations as being connected to the trademark BOURSO®. It does not prevent the likelihood of confusion between the disputed domain names and the Complainant, its trademark and its domain names associated.

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

For the foregoing reasons, the Panel finds the Complainant has satisfied 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). More specifically, the Complainant must first make a prima facie case that the Respondent lack rights and legitimate interests in the disputed domain names, and the burden of prove then shifts to the Respondent to show they do have rights or legitimate interests. See PepsiCo, Inc. v Smith power production, 102378, (CAC 2019-03-08) ("The Panel finds that the Complainant has made out a prima facie case that arises from the considerations above. All of these matters go to make out the prima facie case against the Respondent. As the Respondent has not filed a Response or attempted by any other means to rebut the prima facie case against it, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.").

First, the Complainant contends that the Respondent is not commonly known by the disputed domain names and has no relationship whatsoever with the Respondent and has never authorized the Respondent to use the BOURSO trademark or the disputed domain names. 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.

Second, the Complainant points out that the disputed domain names resolve to error pages without any actual content. The Complainant contends that Respondent is passively holding the disputed domain names and 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.

The Panel finds that the Complainant has established a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain names. The burden of proof has been shifted to the Respondent to prove that it has right or legitimate interests to the disputed domain names. However, the Respondent has not submitted any response to rebut the assertion within the required period of time.

For the foregoing reasons, the Panel finds the Complainant has satisfied 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).

First, the Complainant reiterates that BOURSORAMA is the French online banking reference with its 4,7 million customers. Given the distinctiveness of the Complainant's trademark and reputation as confirmed by the previous panels and the similarity between the disputed domain names and Complainant's trademarks, it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's trademark.

Second, the disputed domain names are being held by the Respondent by resolving to error pages. The Complainant contends that 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.

Having considered the overall circumstances, the Panel agrees that Respondent should have actual knowledge of Complainant's BOURSO mark and its passive holding of the disputed domain names constitutes registration and use of the disputed domain names in bad faith, see BOURSORAMA v Ryad Hadjeb, 105297 (CAC 2023-05-03).

For the foregoing reasons, the Panel finds the Complainant has satisfied 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

Having established all three elements required under the UDRP Policy, the Panel concludes that relief shall be granted.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **bonnegestionboursosupp.com**: Transferred
2. **consolidationdesaccbourso.com**: Transferred
3. **determinationboursoperso.com**: Transferred

PANELLISTS

Name	Mr Paddy TAM
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DATE OF PANEL DECISION 2023-05-16

Publish the Decision
