

Decision for dispute CAC-UDRP-105452

Case number	CAC-UDRP-105452
Time of filing	2023-05-18 09:43:25
Domain names	monespaceboursorama.com

Case administrator

Name	Olga Dvořáková (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

Organization	ROUSS
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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 name.

IDENTIFICATION OF RIGHTS

The Complainant is owner of the French national trademark BOURSORAMA with registration number 001758614, registered since October 19, 2001 for goods and services in classes 9, 16, 35, 36, 38, 41, and 42.

FACTUAL BACKGROUND

The Complainant is a French financial company in the field of e-commerce and online financial products with an online brokerage, financial information and banking operation and over 4.7 million customers.

The disputed domain name was registered on May 14, 2023 and resolves to a webpage showing a “404 Page Not Found” error.

The Complainant alleges that:

- the disputed domain name is similar to the Complainant’s trademark “BOURSORAMA” and that the addition of the French generic term “mon espace” is not sufficient to escape the finding that the disputed domain name is confusingly similar to the Complainant’s trademark “BOURSORAMA”;
- the Respondent is not identified in the WHOIS register, and not known, as the disputed domain name, the Respondent is neither affiliated with nor authorized by the Complainant in any way, and Respondent has no rights or legitimate interests in respect of the

disputed domain name. Further, neither a license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark "BOURSORAMA" or apply for registration of the disputed domain name; and

- the Responder registered and used the disputed domain name in bad faith because he must have been aware of the Complainant's trademark "BOURSORAMA" when he registered the disputed domain name, and the disputed domain name resolves to an error page and it is not possible to conceive of any plausible actual or contemplated active use of the domain name by the Respondent that would not be illegitimate.

PARTIES CONTENTIONS

Complainant's contentions are summarised above.

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. The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark "BOURSORAMA" which was registered prior to the registration of the disputed domain name. The disputed domain name wholly incorporates the Complainant's trademark "BOURSORAMA". The addition of the term "mon espace" does not eliminate the similarity between Complainant's trademark and the disputed domain name.
2. The Panel finds that the Complainant successfully submitted *prima facie* evidence that the Respondent is not commonly known under the disputed domain name, was not authorized by the Complainant to register and use the disputed domain name, and has made no use of, or demonstrable preparations to use the disputed domain name in connection with a bona fide offering of goods or services. The Complainant's allegations were not challenged by the Respondent.
3. In the absence of a Response, and based on the undisputed facts as disclosed by the Complainant, the Panel infers that the Respondent must have had the Complainant's trademark "BOURSORAMA" in mind when he registered the disputed domain name, which was therefore registered in bad faith. According to WIPO Overview, section 3.3, "[...] panelists have found that the non-use of a domain name (..) would not prevent a finding of bad faith under the doctrine of passive holding," and that the circumstances of the case determine if a disputed domain name is used in bad faith. In this matter the Panel is satisfied that the disputed domain name is used in bad faith because the disputed domain name is identical to the Complainant's trademark "BOURSORAMA" and was registered while the Respondent was likely aware of the Complainant's trademark which is undisputedly well-known, the Respondent concealed his identity, and the allegation of

illegitimate use of the disputed domain name, “such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant’s rights under trademark law” remained unchallenged.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **monespaceboursorama.com**: Transferred

PANELLISTS

Name	Alfred Meijboom
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DATE OF PANEL DECISION 2023-06-19

Publish the Decision
