

Decision for dispute CAC-UDRP-105493

Case number **CAC-UDRP-105493**

Time of filing **2023-06-01 09:32:50**

Domain names **my-boursorama.com**

Case administrator

Name **Olga Dvořáková (Case admin)**

Complainant

Organization **BOURSORAMA**

Complainant representative

Organization **NAMESHIELD S.A.S.**

Respondent

Name **Amir Tayaber**

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 reputation of BOURSORAMA trademark is well established. Complainant has provided evidence of its trademark registration consisting of the BOURSORAMA sign held by BOURSORAMA in Europe:

- The European trademark BOURSORAMA No. 001758614, dated of July 13, 2000, duly renewed, covering goods and services in classes 9, 16, 35, 36, 38, 41 and 42;

As part of its business activities, Complainant has registered several domain names incorporating the trademark BOURSORAMA such as <boursorama.com> registered on March 1, 1998, and <boursoramabanque.com> registered on May 26, 2005, duly renewed.

FACTUAL BACKGROUND

Established in 1998, Complainant is a subsidiary of the Société Générale group. Boursorama is known on a European scale as a pioneer and leader in three main activities, which are online brokerage, financial information on the Internet and online banking. Indeed, BOURSORAMA S.A has grown with the rise of e-commerce and the continuous expansion of its range of online financial products.

The banking activity, www.boursorama.com, was launched in 2005 and according to an online survey by OpinionWay, Boursorama Banque is highly recommended by nearly 85% of its customers. Each year, Boursorama strengthens its position as a major banking

player in France, reaching over 4.9 million customers by February 2023.

The Disputed Domain Name was registered on May 26, 2023, with the Registrar Dynadot Inc and resolves to an error page.

PARTIES CONTENTIONS

Respondent did not reply to Complainant's contentions and is therefore in default.

Complainant :

Firstly, Complainant contends that the Disputed Domain Name is confusingly similar to its BOURSORAMA trademark and its domain name associated, as it includes Complainant's trademark and domain name in its entirety.

Complainant claims that the terms "my" do not lower the risk of confusion between the BOURSORAMA trademark and the Disputed Domain Name since the latter includes the well-known trademark in its entirety (see for instance *Dr. Ing. h.c. F. Porsche AG v. Vasilii Terkin*, WIPO Case No. D2003-0888).

Complainant asserts that the addition of the gTLD ".com" does not prevent the risk of confusion between the Disputed Domain Name and the BOURSORAMA trademark (see for instance *F. Hoffmann-La Roche AG v. Macalve e-dominios S.A.* WIPO Case No. D2006-0451).

Moreover, Complainant adds that Internet users may associate the Disputed Domain Name with Complainant's activities and its BOURSORAMA trademark.

Secondly, Complainant claims that Respondent has no rights or legitimate interests in this Disputed Domain Name.

According to Complainant, it appears that Respondent is not commonly known by the term "my-boursorama" as the Whois information is not similar to the Disputed Domain Name.

Complainant declares that it has not granted any license or authorization to Respondent to use its BOURSORAMA trademark in association with the Disputed Domain Name.

In addition, Complainant also alleges that Respondent is not using and has no demonstrable plans for the Disputed Domain Name. Indeed, the Disputed Domain Name resolves to an error page.

Finally, Complainant asserts that Respondent has registered and is using the Disputed Domain Name in bad faith.

Complainant highlights Boursorama's reputation in France as a leading online bank. With over 4.9 million customers, Complainant states that Respondent could not have ignored Complainant and its activity.

Furthermore, Complainant noted that the Disputed Domain Name resolves to an error page. As such, Complainant alleges that Respondent has not established any activity related to the Disputed Domain Name. Consequently, according to Complainant, there is no evidence of any current or intended legitimate use of the Disputed Domain Name by Respondent.

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).

The Disputed Domain Name incorporates Complainant's "BOURSORAMA" trademark in their entirety. The addition of the possessive pronoun "MY" and the dash does not prevent a finding of confusing similarity under policy, paragraph 4 (a)(i). The Panel considers that the Disputed Domain Name reproduces the "BOURSORAMA" trademark with the only difference being the addition of the possessive pronoun "MY" and the dash which does not prevent the potential for confusion due to the similarity.

Moreover, the gTLD ".com" is not be taken into consideration when examining the identity or similarity between Complainant's registered trademark and the Disputed Domain Name, as it is viewed as a standard registration requirement. (See *Fendi Srl v. Ren Fu Rong* WIPO Case No. D2021-2115).

For the aforementioned reasons, the Panel finds that the Disputed Domain Name is confusingly similar to Complainant's "BOURSORAMA" trademark under 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).

Respondent has no association with Complainant and has not been authorized to use and register any domain name that include the "BOURSORAMA" trademark. Respondent cannot claim prior rights or legitimate interest in the Disputed Domain Name as the registered trademark precedes the registration of the Disputed Domain Name.

Finally, there is no evidence that Respondent has become commonly known by the terms "my boursorama", in accordance with paragraph 4(c)(ii) of the Policy. As the Disputed Domain Name is confusingly similar to Complainant's well-known registered trademark, Respondent cannot plausibly pretend he was intending to develop a legitimate activity through the Disputed Domain Name.

Having considered the above circumstances, the Panel finds that Respondent has no rights or legitimate interests in respect of the Disputed Domain Name and the requirement of paragraph 4(a)(ii) of the Policy is satisfied.

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).

To establish that the Disputed Domain Name has been registered in bad faith, Complainant must show that Respondent "knew or should have known" about the Complainant and the trademark and nevertheless registered a domain name which he had no rights and legitimate interests (see for instance *Research In Motion Limited v. Privacy Locked LLC/Nat Collicot*, WIPO Case No. D2009-0320 and *The Gap, Inc. v. Deng Youqian*, WIPO Case No. D2009-0113).

Given Complainant's Europe presence and its trademark registrations, the Panel finds it strongly unlikely that Respondent was not aware of Complainant's rights in said trademark. The Panel considers that the trademark is well known and that with a simple Google search, Respondent could have known the existence of Complainant.

Previous UDRP panels have also found that "the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith" (See section 3.1.4 of the WIPO Overview 3.0). The Disputed Domain Name incorporates Complainant's trademark and adding the possessive pronoun "my" and a dash.

The Panel finds it implausible that Respondent was unaware of Complainant when it registered the disputed domain name.

As for the use of the Disputed Domain Name, the Administrative Panel observes that it does not lead to any active site, and thus there is no actual use of it. This observation, combined with the previous finding that Respondent has fully incorporated Complainant's trademarks, leads to the conclusion that any plausible actual or contemplated active use of the Disputed Domain Name by Respondent that would not be illegitimate.

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.

The complaint was filed with the Czech Arbitration Court (CAC) on May 30, 2023. On June 1, 2023, the CAC transmitted a request for registrar verification to the Registrar by email. On the same day, the complaint was not admitted to proceed further in the Administrative Proceeding. Then, the complaint was filed with the CAC on June 1, 2023. The CAC sent a communication via email to Complainant, on June 1, 2023, providing information disclosed by the Registrar. Complainant then filed an amendment to the complaint within the appointed deadline.

In accordance with the rules, the CAC formally notified Respondent, and the proceedings started on June 1, 2023. Respondent did not submit any response. Respondent's lack of answer was then notified on June 22, 2023.

The CAC appointed Nathalie Dreyfus as the sole panelist in this matter on June 26, 2023. The Panel found that it was properly constituted and thus submitted the Statement of Acceptance and Declaration of Impartiality and Independence.

PRINCIPAL REASONS FOR THE DECISION

1/ The Panel finds that the Disputed Domain Name is confusingly similar to Complainant's BOURSORAMA trademark since it incorporates the Complainant's trademark in its entirety, adding only the possessive pronoun "my" and a dash.

2/ The Panel finds that Complainant successfully submitted evidence that Respondent lacks rights or legitimate interests in the disputed domain name, as he is unassociated with the Complainant, is unauthorized to use the "BOURSORAMA" trademark, and is not commonly known by "myboursorama".

3/ The Panel finds that Respondent knew Complainant’s BOURSORAMA trademark when he registered the Disputed Domain Name. Finally, the Panel concludes that no use of the Disputed Domain Name could be made in good faith.

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the Disputed Domain Name, <myboursorama.com> be transferred to Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **my-boursorama.com**: Transferred

PANELLISTS

Name	Nathalie Dreyfus
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DATE OF PANEL DECISION 2023-07-07

Publish the Decision