

Decision for dispute CAC-UDRP-105521

Case number	CAC-UDRP-105521
Time of filing	2023-06-13 09:58:52
Domain names	espace-clients-boursorama-banque.com, redirectbourso.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

Name	fg gfgs
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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 bases his Complaint on the following trademarks:

- the French trademark BOURSO, n 3009973, registered on 22.02.2000, for goods and services in classes 9, 35, 36, 38, 41, 42;
- the European trademark BOURSORAMA, n 001758614, registered on 19.10.2001, for goods and services in classes 09, 16, 35, 36, 38, 41, 42;
- the French trademark BOURSORAMA BANQUE, n 3676762, registered on 16.09.2009, for services in classes 35, 36, 38.

FACTUAL BACKGROUND

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, the Complainant based its growth on innovation, commitment and transparency.

In France, the Complainant is the online banking reference with over 4,9 million customers. According to the Complainant, the portal

www.boursorama.com is the first national financial and economic information site and first French online banking platform.

The Complainant is the owner of BOURSORAMA and BOURSO trademarks.

The Complainant also owns a number of domain names, including <boursorama.com>, registered since 01.03.1998, <bourso.com>, registered since 11.01.2000, and <boursoramabanque.com>, registered since 26.05.2005.

Both disputed domain names were registered on 08.06.2023. The disputed domain name <espace-clients-boursorama-banque.com> resolved at the time when the Complaint was filed to a login page which appears to copy the Complainant's official customer access website <<https://clients.boursorama.com/connexion/>>, while the disputed domain name <redirectbourso.com> appear to have redirected at the time when the Complaint was filed to <espace-clients-boursorama-banque.com> which at its turn resolved to a login page as mentioned above.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

The Complainant's contentions are the following:

The Complainant first states that both disputed domain names are confusingly similar to its trademarks BOURSORAMA and BOURSO and its associated domain names, as both include its trademarks in their entirety.

The Complainant asserts that the addition of the generic terms "ESPACE" (meaning "AREA" in English), "CLIENTS" (meaning "CUSTOMERS" in English), "BANQUE" (meaning "BANK" in English), and "REDIRECT" is not sufficient to escape the finding that the disputed domain names are confusingly similar to the trademarks BOURSORAMA and BOURSO.

For the term "BANQUE", in the Complainant's view, the addition worsens the likelihood of confusion, as it directly refers to the Complainant's trademark BOURSORAMA BANQUE and its domain name <boursoramabanque.com>.

Moreover, the Complainant contends that the addition of the suffix ".COM" does not change the overall impression of the designations as being connected to the trademarks BOURSORAMA and BOURSO.

Secondly, the Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain names.

The Complainant asserts in this sense that, the Respondent is not known as the disputed domain names and moreover that the Respondent is not known by the Complainant.

The Complainant contends that the Respondent is not affiliated with nor authorized by the Complainant in any way and that 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.

The Complainant further contends that the disputed domain name <espace-clients-boursorama-banque.com> resolves to login page copying the Complainant's official customer access website <<https://clients.boursorama.com/connexion/>> and the domain name <redirectbourso.com> redirects to <espace-clients-boursorama-banque.com>. The Complainant asserts that this page could be used in order to collect personal information of the Complainant's clients. Thus, the Complainant contends that the Respondent's website cannot be considered as a bona fide offering of services or fair use, since the website can mislead the consumers into believing that they are accessing the Complainant's website.

Thirdly, the Complainant contends that the disputed domain names were registered and are being used in bad faith.

To this end, the Complainant asserts that with its 4,9 million customers, BOURSORAMA is the French online banking reference and that the disputed domain names include the well-known and distinctive trademarks BOURSORAMA and BOURSO.

The Complainant asserts that the Respondent has registered the disputed domain names with full knowledge of the Complainant's trademarks.

The Complainant underlines that the domain name <espace-clients-boursorama-banque.com> resolves to login page copying the Complainant's official customer access <<https://clients.boursorama.com/connexion/>>, and the domain name <redirectbourso.com> redirects to <espace-clients-boursorama-banque.com> and that this website does not contain any information about the Respondent. Therefore, in the Complainant's view, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to his website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of his website. In addition, the Complainant underlines that the Respondent can collect personal information through this website, namely passwords.

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

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

I. Identical or Confusingly Similar

The Panel agrees that both disputed domain names <espace-clients-boursorama-banque.com> and <redirectbourso.com> are confusingly similar to the Complainant's earlier trademarks BOURSORAMA and BOURSO, as the Complainant's trademarks are included in their entirety.

The addition of the terms "ESPACE" (meaning "AREA" in English language, translated from French language), "CLIENTS" (meaning "CLIENTS/CUSTOMERS" in English language, translated from French language), "BANQUE" (meaning "BANK" in English language, translated from French language), and "REDIRECT" is not sufficient to escape the finding that the disputed domain names are confusingly similar to the trademarks BOURSORAMA and BOURSO.

Moreover, the extension ".com" in both disputed domain names is not to be taken into consideration when examining the identity/similarity between the Complainant's trademarks and the disputed domain names (WIPO Case No. D2006-0451, F. Hoffmann-La Roche AG v. Macalve e-dominios S.A). The applicable Top Level Domain ("TLD") in a domain name (e.g., ".com", ".club", ".nyc") is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Jurisprudential Overview 3.0")).

Therefore, the Panel is satisfied that the first condition under the Policy is met.

II. Rights or Legitimate Interests

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 burden of proof shifts to the respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the disputed domain names. If the respondent fails to come forward with such appropriate allegations or evidence, a complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the UDRP.

Based on the available evidence, the Respondent does not appear to be known by the disputed domain names. The Respondent is not a licensee or an affiliate of, nor has any kind of relationship with, the Complainant. The Complainant has never authorised the Respondent to make use of his trademarks, nor to register the disputed domain names which includes his BOURSORAMA and BOURSO trademarks.

The disputed domain name <espace-clients-boursorama-banque.com> resolved at the time when the Complaint was filed to a login page which appears to copy the Complainant's official customer access website <<https://clients.boursorama.com/connexion/>>, while the disputed domain name <redirectbourso.com> appear to have redirected at the time when the Complaint was filed to <espace-clients-boursorama-banque.com> which at its turn resolved to a login page as mentioned above. Such use does not amount to a bona fide offering of goods or services, or to a legitimate noncommercial or fair use of the disputed domain names,

especially as such website can mislead the consumers into believing that they are accessing the Complainant's website.

The Panel notes that the Respondent had an opportunity to comment on the Complainant's allegations by filing a Response, which the Respondent failed to do.

Thus, the Panel is satisfied that the Complainant has at least established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names. Accordingly, the Panel takes the view that also the second requirement under the Policy is met.

III. Registered and Used in Bad Faith

The registration of the trademarks BOURSORAMA and BOURSO predates the Respondent's registration of both disputed domain names.

Therefore, the Panel concludes that at the time of registration of the disputed domain names, the Respondent was aware of the Complainant's trademarks and has intentionally registered the domain names in order to create confusion with the Complainant's trademarks.

In the present case, the following factors should be also considered:

(i) the Respondent failed to submit any reponse and has not provided any evidence of actual or contemplated good faith use of the disputed domain names;

(ii) the Respondent registered the disputed domain names containing the Complainant's earlier trademarks BOURSORAMA and BOURSO in their entirety;

(iii) the Respondent has no business relationship with the Complainant, nor was ever authorised to register and use domain names confusingly similar to the Complainant's trademarks;

(iv) the disputed domain name <espace-clients-boursorama-banque.com> resolved at the time when the Complaint was filed to a login page which appears to copy the Complainant's official customer access website <<https://clients.boursorama.com/connexion/>>, while the disputed domain name <redirectbourso.com> appear to have redirected at the time when the Complaint was filed to <espace-clients-boursorama-banque.com> which at its turn resolved to a login page as mentioned above. Thus, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to his website, by creating a likelihood of confusion with the Complainant's marks as to the source, sponsorship, affiliation, or endorsement of his website.

In light of the foregoing, the Panel finds that the disputed domain names have been registered and are being used in bad faith. Thus, also the third and last condition under the Policy is satisfied.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **espace-clients-boursorama-banque.com**: Transferred
2. **redirectbourso.com**: Transferred

PANELLISTS

Name	Delia-Mihaela Belciu
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DATE OF PANEL DECISION 2023-07-19

Publish the Decision
