

Decision for dispute CAC-UDRP-105558

Case number	CAC-UDRP-105558
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Time of filing	2023-06-22 09:06:56
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Domain names	login-espace-clients-boursorama-banque.com, redicourboursor.com
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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	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 is in particular proprietor of the, in force:

- European trademark n° 001758614 for BOURSORAMA registered on October 19, 2001 in classes 9, 16, 35, 36, 38, 41 and 42, duly renewed since;
- French trademark BOURSORAMA BANQUE (figurative) n°3676762 registered on September 16, 2009 in classes 35, 36 and 38 duly renewed since;
- French trademark BOURSO n°3009973 registered on February 22, 2000 in classes 9, 35, 36, 38, 41 and 42, duly renewed since.

FACTUAL BACKGROUND

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 4,9 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 several trademarks BOURSORAMA, BOURSORAMA BANQUE and BOURSO registered at the EUIPO or French INPI.

The Complainant also owns a number of domain names, including the same distinctive wording BOURSORAMA and BOURSO, such as the domain names <boursorama.com>, registered since March 1, 1998, <bourso.com>, registered since January 11, 2000, and <boursoramabanque.com>, registered since May 26, 2005.

The disputed domain names were registered on June 17, 2023 and resolve to simple "Web Server's Default Page".

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).

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

The disputed domain names are confusingly similar to the trademark BOURSORAMA and BOURSO of the Complainant since the descriptive words "login", "espace" and "clients" or "redicour" are not distinctive and can accordingly not be considered as relevant to influence the overall impression of the domain name respectively avoid a highly confusing similarity.

The Panel therefore considers the disputed domain names to be confusingly similar to the trademarks in which the Complainant have rights in accordance with paragraph 4(a)(i) of the Policy.

The Complainant's assertions that the Respondent is not commonly known by the disputed domain names and is not affiliated with nor authorized by the Complainant is sufficient to constitute prima facie showing the absence of rights or legitimate interest in the disputed domain names on the part of the Respondent. The evidential burden therefore shifts to the Respondent to show by concrete evidence that it does have rights or legitimate interests in that name. The Respondent has made no attempt to do so. The Panel therefore finds that the Respondent does not have rights or legitimate interests in the disputed domain names.

In view of the non-disputed assessment that the Complainant is a significant player in online banking and financial information and in view of the significant number of customers and in view of the fact that Complainant's trademarks have no meaning, the Respondent must have been well aware of the Complainant and its trademarks when registering the disputed domain names differing only in descriptive words compared to Complainant's trademarks. The Complainant had not authorized the Respondent to make use of its marks. This Panel does not see any conceivable legitimate use that could be made by the Respondent of this particular disputed domain names without the Complainant's authorization.

The circumstances of this case, in particular the Respondent's approach to create a "web server landing page" assuming the pattern of conduct to either set a login page possibly similar to the original site of the Complainant or using the mailing config on the domain for phishing activities indicates that the Respondent registered and used the disputed domain names primarily with the intention of attempting to attract, for commercial gain, Internet users to its website or other online locations, by creating a likelihood of confusion with the Complainant's marks as to the source, sponsorship, affiliation, or endorsement of such website or location, or of a product or service on such website or location. Furthermore, a brief research on the online arbitration center dispute decisions list shows at least four recent decisions with the exact similar pattern i.e. associating the Complainant' Trademarks with a non-distinctive term (see CAC UDRP Nos 105565, 105530, 105567, 105557, 105521).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

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

PANELLISTS

Name	David-Irving Tayer
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DATE OF PANEL DECISION 2023-07-30

Publish the Decision