

Decision for dispute CAC-UDRP-105580

Case number	CAC-UDRP-105580
Time of filing	2023-06-29 08:48:39
Domain names	espace-clients-boursorama.info

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	yyyyyyyyyyyyyyyyyyyy yyyyyyyyyyyyyyyyyyyyy yyyyyyyyyyyyyyyyyyyyy
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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 the owner of the European Union word trademark "BOURSORAMA" No. 1758614 registered from October 19, 2001 with priority from July 13, 2000.

FACTUAL BACKGROUND

The Complainant is a French company active in the field of online brokerage, financial information on the Internet and online banking. The Complainant operates the online portal www.boursorama.com which is a financial and economic information site and French online banking platform.

The Complainant also owns the domain name <boursorama.com>, registered from March 1, 1998.

The disputed domain name <espace-clients-boursorama.info> was registered on June 23, 2023.

PARTIES CONTENTIONS

1. Complainant

The Complainant argues that the disputed domain name is confusingly similar to its trademark BOURSORAMA and its associated domain names pointing out that the domain name includes its BOURSORAMA trademark in its entirety.

The Complainant asserts that the addition of the generic terms "ESPACE" (meaning "space") and "CLIENTS" (meaning "customers") is not sufficient to escape the finding that the disputed domain name is confusingly similar to the trademark BOURSORAMA.

Furthermore, the Complainant contends that the Respondent lacks any rights or legitimate interests in the disputed domain name.

Specifically, the Complainant notes that (i) the Respondent's name is not identical to or similar with the disputed domain name and Respondent is not affiliated with nor authorized by the Complainant in any way, (ii) the Respondent has not been granted any license or authorization by the Complainant to make use of its trademarks or register the disputed domain name, and (iii) the Complainant does not carry out any activity for or has any business with the Respondent.

The Complainant argues that the Respondent has registered and is using the disputed domain name in bad faith. Firstly, given the distinctiveness and well-known status of the Complainant's BOURSORAMA trademark, it is reasonable to conclude that the Respondent registered and used the domain name with full knowledge of the Complainant's trademark.

Secondly, the Respondent's disputed domain name resolves to a parking page with commercial links, and the Respondent has attempted to attract Internet users to his own website for commercial gain using the Complainant's trademarks. These actions are evidence of bad faith.

2. Respondent

No administratively compliant response has been submitted by the 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 Complainant has successfully demonstrated that it is the rightful owner of the "BOURSORAMA" word trademark which enjoys legal protection in the European Union. The Panel acknowledges that the Complainant's BOURSORAMA trademark is unmistakably recognizable in the disputed domain name, and agrees with the Complainant that the additional words included in the disputed domain name, namely "ESPACE" and "CLIENTS" are generic and insufficient to prevent likelihood of confusion with the Complainant's trademark. The Panel observes that the Complainant's website <https://www.boursorama.com/> itself includes in its upper right corner the phrase and link "Espace Client" which in Panel's view further increases the risk of confusion of the disputed domain name with the Complainant's trademark.

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).

A complainant is required to establish a prima facie case that the respondent lacks rights or legitimate interests. Once such a case is made, the burden of proof shifts to the respondent to demonstrate their rights or legitimate interests in the disputed domain name. Failure to do so results in the complainant satisfying paragraph 4(a)(ii) of the Policy (as per Article 2.1 of WIPO Jurisprudential Overview 3.0 and WIPO Case No. D2003-0455, Croatia Airlines d.d. v. Modern Empire Internet Ltd.).

Based on the contentions of the Complainant, the Panel finds that the Complainant has successfully established a prima facie case that the Respondent lacks rights or legitimate interests. As the Respondent has failed to provide relevant evidence demonstrating any such rights or legitimate interests, the Complainant is deemed to have satisfied the second element.

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).

Bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark (see Article 3.1. of WIPO Jurisprudential Overview 3.0).

As a preliminary remark the Panel observes that the Respondent used clearly false registration data for the registration of the disputed domain name. The Panel concludes that it is reasonable to assume that the Respondent's name formed of multiple letters

"y" is fictitious. Also, the Respondent's registered postal address as mentioned by the dispute administrator appears not to exist.

The WIPO panels agree that the use of false registration data in connection with a disputed domain name supports a finding of bad faith registration and use. See e.g. Action Instruments, Inc. v. Technology Associates, [WIPO Case No. D2003-0024](#); Royal Bank of Scotland Group v. Stealth Commerce, [WIPO Case No. D2002-0155](#); Home Director, Inc. v. HomeDirector, [WIPO Case No. D2000-0111](#) (April 11, 2000).

Registration in bad faith

In determining bad faith registration of the disputed domain name, the Panel particularly considered the following factors:

- (a) the Complainant's long term presence on the market and also the long-term registration of Complainant's BOURSORAMA trademark which dates back to 2001 while the disputed domain name was registered in 2023 only;
- (b) that the Respondent used the words "ESPACE CLIENTS" which are usually understood to refer to the client's section of financial institution/bank's websites; and
- (c) the use of the false registration data by the Respondent.

Based on the above, the Panel concludes that the Respondent must have been aware of the Complainant and its trademark when registering the disputed domain name.

Therefore, the Panel finds that Respondent has registered the disputed domain name in bad faith.

Use in bad faith

The disputed domain name incorporates the Complainant's distinctive trademark in its entirety, giving the impression of a connection to the goods/services marketed by the Complainant and creating a likelihood of confusion with its trademark.

The evidence submitted by the Complainant further shows that the Respondent is using the disputed domain name to host a website containing commercial links. The Panel finds that such use is not for any bona fide offerings, but rather an attempt to attract internet users to the website for commercial gain by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement.

Therefore, the Panel finds that the disputed domain name is being used in bad faith.

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 Panel has determined that the disputed domain name is confusingly similar to the Complainant's trademark.

Based on the contentions presented by the Complainant, the Panel has found that the Complainant has satisfactorily made a prima facie case that the Respondent lacks rights or legitimate interests. As the Respondent has failed to provide relevant evidence demonstrating any such rights or legitimate interests, the Complainant is deemed to have satisfied the second element.

The Panel finds that, based on the Complainant's contentions and evidence, it can be concluded that the Respondent must have been aware of the Complainant's trademarks when it registered the disputed domain name, and as such, the Respondent has registered the disputed domain name in bad faith.

Lastly, the Panel has concluded that the Complainant has successfully proven that the disputed domain name is being used in bad faith.

Therefore, for the aforementioned reasons, the Panel orders that the disputed domain name <espace-clients-boursorama.info> be transferred to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. espace-clients-boursorama.info: Transferred

PANELLISTS

Name	Karel Šindelka
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DATE OF PANEL DECISION 2023-08-01

Publish the Decision
