

## Decision for dispute CAC-UDRP-105620

Case number CAC-UDRP-105620

Time of filing 2023-07-13 08:56:40

Domain names weboursorama.com

### Case administrator

Organization Iveta Špiclová (Czech Arbitration Court) (Case admin)

### Complainant

Organization BOURSORAMA

### Complainant representative

Organization NAMESHIELD S.A.S.

### Respondent

Name Marvin Michaels

#### 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 owns European trademark BOURSORAMA n°001758614 registered since October 19, 2001.

#### FACTUAL BACKGROUND

The Complainant operates three core businesses: online brokerage, financial information on the Internet and online banking. Its trademark BOURSORAMA was registered on October 19, 2001. The disputed domain name <weboursorama.com> was registered on July 6, 2023. It resolves to a website offering online banking services.

#### PARTIES CONTENTIONS

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).

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#### 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).

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#### 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).

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#### 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.

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#### PRINCIPAL REASONS FOR THE DECISION

Paragraph 15(a) of the Rules instructs this Panel to "decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable."

Paragraph 4(a) of the Policy requires that the Complainant must prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

- (1) the domain name registered by the respondent is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (2) the respondent has no rights or legitimate interests in respect of the domain name; and
- (3) the domain name has been registered and is being used in bad faith.

In view of the Respondent's failure to submit a response, the Panel shall decide this administrative proceeding on the basis of the Complainant's undisputed representations pursuant to paragraphs 5(f), 14(a) and 15(a) of the Rules and draw such inferences as it considers appropriate pursuant to paragraph 14(b) of the Rules. The Panel is entitled to accept all reasonable allegations set forth in a complaint; however, the Panel may deny relief where a complaint contains mere conclusory or unsubstantiated arguments. See WIPO Jurisprudential Overview 3.0 at 4.3.

As to the first element, the Complainant has shown that it has rights in European trademark BOURSORAMA n°001758614 registered since October 19, 2001. The Panel finds the disputed domain name <weboursorama.com> to be confusingly similar to Complainant's mark, since it incorporates the mark in its entirety, merely adding the word "we", which is not sufficient to distinguish the domain name from the mark. The inconsequential gTLD ".com" may be ignored.

As to the second element, paragraph 4(c) of the Policy sets out three illustrative circumstances as examples which, if established by the Respondent, shall demonstrate rights to or legitimate interests in the disputed domain name for purposes of paragraph 4(a)(ii) of the Policy, i.e.

- (i) before any notice to the Respondent of the dispute, the use by the Respondent of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a bona fide offering of goods or services; or
- (ii) the Respondent (as an individual, business or other organization) has been commonly known by the disputed domain name, even if the Respondent has acquired no trademark or

service mark rights; or

(iii) the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert customers or to tarnish the trademark or service mark at issue.

The Complainant asserts that the Respondent is not known by the Complainant and is not affiliated with nor authorized by the Complainant in any way. The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant does not carry out any activity for, nor has any business with the Respondent. Neither licence nor authorization has been granted to the Respondent to make any use of the Complainant's trademark BOURSORAMA, nor to apply for registration of the disputed domain name.

The disputed domain name <weboursorama.com> was registered on July 6, 2023, many years after the Complainant has shown that its BOURSORAMA mark had become very well-known. It resolves to a website offering online banking services in direct competition with the Complainant.

These circumstances, together with the Complainant's assertions, are sufficient to constitute prima facie showing of absence of rights or legitimate interests in respect of the disputed domain name on the part of the Respondent. The evidentiary burden therefore shifts to the Respondent to show that it does have rights or legitimate interests in the disputed domain name. See *JUUL Labs, Inc. v. Dryx Emerson / KMF Events LTD*, FA1906001849706 (Forum July 17, 2019). The Respondent has made no attempt to do so.

The Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

As to the third element, paragraph 4(b) of the Policy sets out four illustrative circumstances, which, though not exclusive, shall be evidence of the registration and use of the disputed domain name in bad faith for purposes of paragraph 4(a)(iii) of the Policy, including:

(iv) by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on its website or location.

The circumstances set out above in relation to the second element satisfy the Panel that the Respondent was fully aware of the Complainant's BOURSORAMA mark when the Respondent registered the disputed domain name and that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's website, by creating a likelihood of confusion with the Complainant's mark as to the source of the Respondent's website and of the services promoted on that website. This demonstrates registration and use in bad faith to attract users for commercial gain under Policy 4(b)(iv).

Accordingly, the Panel concludes that the Respondent has registered the disputed domain name and is using it in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

**Accepted**

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

1. **weboursorama.com**: Transferred

## PANELLISTS

Name **Alan Limbury**

DATE OF PANEL DECISION **2023-08-13**

Publish the Decision