

Decision for dispute CAC-UDRP-105904

Case number CAC-UDRP-105904

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Domain names bourseir.com

Case administrator

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

Complainant

Organization INVESTIR PUBLICATIONS

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Name Idah Idah

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 several trademarks including the term "BOURSIER.COM", such as

- the French trademark BOURSIER.COM n° 3005350 registered since February 4th, 2000;
 - the French trademark BOURSIER.COM n° 3851259 registered since August 4th, 2011.
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FACTUAL BACKGROUND

As a part of the GROUPE LES ECHOS - LE PARISIEN, the French company INVESTIR PUBLICATIONS (the "Complainant") managed the website Boursier.com, which provides stock market information. Thanks to a specialized editorial team of more than 10 journalists, Boursier.com publishes a continuous thread of nearly 200 daily dispatches around 20 thematic verticals (News, Advice, Quotes, Products, Agenda, etc.) on the French and international markets.

The disputed domain name <bourseir.com> was registered on September 30th, 2023 and redirect to a parking page with commercial links.

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 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 is confusingly similar to the Complainant's trademark BOURSIER. Indeed, the Complainant BOURSIER.COM is included in its entirety.

The inversion of the letters "I" and "E" is not sufficient to escape the finding that the domain name is confusingly similar to the Complainant's trademark and it does not change the overall impression of the designation as being connected to the trademark BOURSIER.COM.

The disputed domain name constitutes a misspelled version of the Complainant's registered trademark BOURSIER.COM.

This is thus a clear case of "typosquatting", i.e. the disputed domain names contain obvious misspellings of the Complainant's trademark. Previous panels have found that the slight spelling variations does not prevent a disputed domain name from being confusing similar to the complainant's trademark.

Please see CAC case n° 103173, BOUYGUES v. 36 karatt ("As stated in WIPO Overview 3.0 "a domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element" (see par. 1.9). In the present case, the Complainant's trademark is clearly recognizable in the disputed domain name and contains an obvious misspelling – inversion of the letters "o" and "u".").

Thus, the disputed domain name is confusingly similar to the Complainant's trademark BOURSIER.COM.

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).

According to the WIPO Case No. D2003-0455, Croatia Airlines d.d. v. Modern Empire Internet Ltd., a 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 Respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

The Respondent is not identified in the Whois database as the disputed domain name. Past panels have held that a Respondent was not commonly known by a disputed domain name if the WHOIS information was not similar to the disputed domain name.

Please see Forum Case No. FA 1781783, Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group <bobsfromsketchers.com> ("Here, the WHOIS information of record identifies Respondent as "Chad Moston / Elite Media Group." The Panel therefore finds under Policy ¶ 4(c)(ii) that Respondent is not commonly known by the disputed domain name under Policy ¶ 4(c)(ii).").

The Respondent is not affiliated with nor authorized by the Complainant in any way. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain names. 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, or apply for registration of the disputed domain names by the Complainant.

Furthermore, the two domain names are typosquatted version of the trademark BOURSIER.COM. Typosquatting is the practice of registering a domain name in an attempt to take advantage of Internet users' typographical errors and can be evidence that a respondent lacks rights and legitimate interests in the domain name.

Thus, in accordance with the foregoing, the Respondent has no right or legitimate interest in respect of the disputed domain name.

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).

The disputed domain name has been registered many years after the Complainant has established a strong reputation and goodwill in its mark. The first Google results of a search of the term "BOURSEIR" refers to the Complainant's financial information website.

Thus, it is unconceivable that the Respondent chose to register the disputed domain names without the Complainant and its trademark in mind.

Please see WIPO Case No. D2017-0660, Boehringer Ingelheim Pharma GmbH & Co.KG v. Pan Jing ("The Complainant has submitted evidence to show that its trade mark COMBIVENT enjoy a strong online presence and a cross-border reputation. A cursory Internet search would have disclosed the COMBIVENT trade mark and its extensive use by the Complainant. Thus a presumption arises that the Respondent was aware of the Complainant's COMBIVENT trade mark and related domain names when it registered the disputed domain names, particularly given that the disputed domain names are identical to the Complainant's mark. Registration of a domain name that incorporates a complainant's distinctive trade mark suggests opportunistic bad faith.").

Moreover, by registering the domain name <bourseir.com> with the misspelling of the trademark BOURSIER.COM, the practical was intentionally designed to be confusingly similar with the Complainant's trademark. Previous UDRP panels have seen such actions as evidence of bad faith.

Furthermore, the disputed domain name redirects to a parking page with commercial links. The Respondent has attempted to attract Internet users for commercial gain to his own website thanks to the Complainant's trademark, which is an evidence of bad faith.

As stated in WIPO Case No. D2018-0497, StudioCanal v. Registration Private, Domains By Proxy, LLC / Sudjam Admin, Sudjam LLC ("In that circumstance, whether the commercial gain from misled Internet users is gained by the Respondent or by the Registrar (or by another third party), it remains that the Respondent controls and cannot (absent some special circumstance) disclaim responsibility for, the content appearing on the website to which the disputed domain name resolve [...] so the Panel presumes that the Respondent has allowed the disputed domain name to be used with the intent to attract Internet users for commercial gain, by creating a likelihood of confusion with the Complainant's trademark as to the source, affiliation, or endorsement of the Respondent's website to which the disputed domain name resolves. Accordingly, the Panel finds that the disputed domain name was registered and is being used in bad faith.").

Finally, the Respondent, Idah Idah, has already been involved in another UDRP proceedings, as the registrant of domain names comprising third-party trademarks. Please see for instance WIPO Case No. D2017-1053, VENITE-PRIVEE.COM VENITE-PRIVEE.COM IP S.à.r.l. v. Idah Idah / Privacy Administrator<vente-prive.co>; WIPO Case No. DMX2018-0030, Comisión Federal de Electricidad v. Idah Idah <cfemex.com.mx>.

On these bases, the Respondent has registered and is using the disputed domain name 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 disputed domain name constitutes a misspelled version of the Complainant's registered trademark BOURSIER.COM. The disputed domain name redirects to a parking page with commercial links. Finally, the Respondent has already been involved in another UDRP proceedings, as the registrant of domain names comprising third-party trademarks.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **bourseir.com**: Transferred

PANELLISTS

Name	Thomas Hoeren
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DATE OF PANEL DECISION 2023-11-22

Publish the Decision
