

Decision for dispute CAC-UDRP-105950

Case number	CAC-UDRP-105950
Time of filing	2023-11-09 09:50:25
Domain names	boursobank.com, boursbaank.com, clients-boursobank-connexion.com , connexion-boursobank-clients.com, espace-clients-connexion-boursobank.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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Respondents

Organization	rssry - hrtsrhs rthtrsh
Organization	hgsc - kyk ykktkuy
Name	willoa loggi
Organization	critair france - michel lavf
Organization	hu - fswhhd hdhtsd

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings that are pending or decided and that relate to the Disputed Domain Names.

IDENTIFICATION OF RIGHTS

Complainant states, and provides evidence to support, that is the owner of “several trademarks” for BOURSORAMA, including EU Reg. No. 1,758,614 (registered October 19, 2001) (the “BOURSORAMA Trademark”).

FACTUAL BACKGROUND

Complainant states that it is a “[p]ioneer and leader in its three core businesses, online brokerage, financial information on the Internet and online banking”; that it has more than 4.9 million customers of its online banking business; and that it uses the domain

name <boursorama.com> (registered March 1, 1998).

The Disputed Domain Names were created on the following dates and are inactive: October 31, 2023 (<boursbaank.com>, <clients-boursobank-connexion.com>, and <espace-clients-connexion-boursobank.com>) and November 1, 2023 (<bourrsobank.com> and <connexion-boursobank-clients.com>).

PARTIES CONTENTIONS

Complainant contends, in relevant part, as follows:

Paragraph 4(a)(i): Complainant states that each of the Disputed Domain Names is confusingly similar to the BOURSORAMA Trademark because, inter alia, they “are characteristic of a typosquatting practice intended to create confusing similarity between the Complainant’s trademark and the disputed domain name”; “slight spelling variations do[] not prevent a domain name from being confusing similar to the Complainant’s trademark”; and the additional terms in the Disputed Domain Names are “not sufficient to avoid the likelihood of confusion” and “do[] not change the overall impression of the designation[s] as being connected to the Complainant’s trademark.”

Paragraph 4(a)(ii): Complainant states that Respondent has no rights or legitimate interests in respect of the Disputed Domain Names because, inter alia, “Respondent is not known as the disputed domain names”; “Respondent is not affiliated with nor authorized by the Complainant in any way”; “[n]either license nor authorization has been granted to the Respondent to make any use of the Complainant’s trademark BOURSORAMA®, or apply for registration of the disputed domain names”; and the Disputed Domain Names are inactive.

Paragraph 4(a)(iii): Complainant states that the Disputed Domain Names were registered and are being used in bad faith because, inter alia, “given the distinctiveness of the Complainant’s trademarks and reputation, it is reasonable to infer that the Respondent has registered the domain names with full knowledge of the Complainant’s trademarks”; “Respondent has not demonstrated any activity in respect of the disputed domain name[s], and it is not possible to conceive of any plausible actual or contemplated active use of the domain name[s] by the Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant’s rights under trademark law”; and “the mere registration of a domain name that is identical or confusingly similar to a well-known or widely-known trademark by an unaffiliated entity may be sufficient to create a presumption of bad faith.”

No administratively compliant response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the Disputed Domain Names re 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 UDRP).

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 UDRP).

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 UDRP).

PROCEDURAL FACTORS

Although the Registrar stated that the language of the Registration Agreement is French, the Panel has decided to allow this proceeding to be conducted in English because the Disputed Domain Names contain the English words (or typographical versions thereof) “bank” and “clients” and the potential unfairness or unwarranted delay in ordering the Complainant to translate the Complaint.

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.

Identical or Confusingly Similar: Paragraph 4(a)(i):

Based upon the trademark registration cited by Complainant, it is apparent that Complainant has rights in and to the BOURSORAMA Trademark.

As to whether the Disputed Domain Names are identical or confusingly similar to the BOURSORAMA Trademark, the relevant comparison to be made is with the second-level portion of the Disputed Domain Names only (i.e., “boursbank”, “clients-boursobank-connexion”, “espace-clients-connexion-boursobank”, “bourrsobank” and “connexion-boursobank-clients”) because “[t]he 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 Overview 3.0, section 1.11.1.

Here, each of the Disputed Domain Names contains the BOURSORAMA Trademark, or a dominant portion of the BOURSORAMA Trademark, in its entirety, simply adding additional words and hyphen(s). As set forth in section 1.8 of WIPO Overview 3.0: “Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element.” Further, section 1.7 of WIPO Overview 3.0 says: “[W]here at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing.”

Accordingly, the Panel finds that Complainant has proven the first element of the Policy.

Rights or Legitimate Interests: Paragraph 4(a)(ii)

Complainant states that Respondent has no rights or legitimate interests in respect of the Disputed Domain Names because, inter alia, “Respondent is not known as the disputed domain names”; “Respondent is not affiliated with nor authorized by the Complainant in any way”; “[n]either license nor authorization has been granted to the Respondent to make any use of the Complainant’s trademark BOURSORAMA®, or apply for registration of the disputed domain names”; and the Disputed Domain Names are inactive.

WIPO Overview 3.0, section 2.1, states: “While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of ‘proving a negative’, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.”

The Panel finds that Complainant has established its prima facie case and without any evidence from Respondent to the contrary, the Panel is satisfied that Complainant has satisfied the second element of the UDRP.

Registered and Used in Bad Faith: Paragraph 4(a)(iii)

Whether a domain name is registered and used in bad faith for purposes of the UDRP may be determined by evaluating four (non-exhaustive) factors set forth in paragraph 4(b) of the UDRP: (i) circumstances indicating that the registrant has registered or the registrant has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the registrant’s documented out-of-pocket costs directly related to the domain name; or (ii) the registrant has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the registrant has engaged in a pattern of such conduct; or (iii) the registrant has registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) by using the domain name, the registrant has intentionally attempted to attract, for commercial gain, Internet users to the registrant’s website or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the registrant’s website or location or of a product or service on the registrant’s website or location.

WIPO Overview 3.0, section 3.3, states:

“From the inception of the UDRP, panelists have found that the non-use of a domain name (including a blank or ‘coming soon’ page) would not prevent a finding of bad faith under the doctrine of passive holding.

“While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put.”

Here, given the BOURSORAMA Trademark is distinctive and appears to have a high degree of reputation given that it was registered at least 25 years ago and is used by a company that purports to have more than 4.9 million customers. Further, it is implausible that any of the Disputed Domain Names could be put to any good faith use.

Accordingly, the Panel finds that Complainant has proven the third element of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **bourrsobank.com**: Transferred
2. **boursbaank.com**: Transferred
3. **clients-boursobank-connexion.com** : Transferred
4. **connexion-boursobank-clients.com**: Transferred
5. **espace-clients-connexion-boursobank.com**: Transferred

PANELLISTS

Name	Douglas Isenberg
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DATE OF PANEL DECISION **2023-12-21**

Publish the Decision
