Decision for dispute CAC-UDRP-106191

Case number	CAC-UDRP-106191
Time of filing	2024-01-25 15:09:28
Domain names	boursobonk.com

Case administrator

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

Complainant

Organization	BOURSORAMA

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	louis martin

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 relies on a French trademark BOURSO, No. 3009973 with priority date from 22 February 2000 registered for goods and services in classes 9, 35, 36, 38, 41 and 42 of the International Nice Classification.

FACTUAL BACKGROUND

The Complainant provides brokerage, financial information and banking services over the Internet through a portal at www.boursorama.com. It has over 5,4 million customers only in France.

Besides the registered national trademark BOURSO, No. 3009973, the Complainant also owns several domain names which includes the word element “BOURSO”, such as the domain name <boursorama.com>, registered since 1 March 1998 or <bourso.com>, registered since 11 January 2000 and <boursobank.com> registered since 23 November, 2005.

The disputed domain name <boursobonk.com> was registered on 23 January, 2023 and resolves to a parking page.

No information is known about the Respondent who registered the disputed domain name under privacy service.

PARTIES CONTENTIONS

COMPLAINANT' CONTENTIONS:

Identical or confusingly similar

The Complainant argues that the disputed domain name <boursobonk.com> and the Complainant's registered trademark BOURSO and associated domain names are confusingly similar.

Particularly, the Complainant contends that its trademark is fully contained within the disputed domain name and points out that the addition of the particle "bonk" refers to a word "bank" contained in the direction of the Complainant´s corporate website available at https://www.boursobank.com/.

The Complainant also points out that the applicable Top-Level suffix ".com" does not per se prevent likelihood of confusion.

No rights or legitimate interests

The Complainant argues that there is no evidence at all that the Respondent is commonly known by the disputed domain name or a name corresponding to the disputed domain name, nor that the Respondent is making any businesses with the Complainant. Moreover, the Complainant states that the Respondent has not been licensed or authorized in other way to use the Complainant's trademark nor to apply for or use any domain name incorporating such trademark.

The fact that the disputed domain name resolves to a parking page shows, in view of the Complainant, that the Respondent did not use the disputed domain name, and it confirms that Respondent has no demonstrable plan to use the disputed domain name.

Registered and used in bad faith

As far as bad faith registration is concerned, the Complainant states that due to a reputation of the trademark BOURSO (namely in the online market of financial services), which has been in use since 1995, the Respondents could not be unaware of the Complainant rights over the name BOURSO at the time of the disputed domain name registration.

Moreover, the Complainant contends that use of the term "BONK" in the disputed domain name, which is a misspelled version of the term "BANK", cannot be coincidental, as it directly refers to the Complainant new corporate name and website https://www.boursobank.com/ and the results of a search of the term "BOURSOBONK" refers to the Complainant. Thus, according to the Complainant, by registering and using domain name which is confusingly similar to the Complainant's registered trademark, the Respondent attempts to pass of the Complainant, to infringe customer protection legislation and the Complainant's rights under trademark law which is a hallmark of bad faith.

RESPONDENT'S CONTENTIONS:

The Respondent has not responded to the Complaint.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is confusingly similar to trademark 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 name (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 name has been registered 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

Paragraph 15 of the Rules states that the Panel decides a Complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law deemed applicable.

In the case of default by a Party, Rule 14 states that if a Party, in the absence of exceptional circumstances, does not comply with a provision of, or requirement under the Rules, the Panel shall draw such inferences therefrom as appropriate.

In the present case, the Respondent has not submitted any Response and consequently has not contested any of the contentions made by the Complainant.

The Panel proceeds therefore to decide only on the basis of the Complainant's factual statements and the documentary evidence provided in support of them.

1.

The Panel finds that the disputed domain name <boursobonk.com> partially reproduces the Complainant's registered trademark "BOURSO", given that the disputed domain name fully incorporated the previously registered trademark.

Moreover, the term "bonk" (which does not have any known meaning) most probably refers to the word "bank", e.g. to the banking services the Complaint is offering under its trademark BOURSO. Finally, the gTLD ".com", which would usually be disregarded as it is a technical requirement of registration, do not later the overall very similar impression the disputed domain name and the registered trademark produce.

Accordingly, the Panel considers that the disputed domain name and the Complainant's previously registered trademark are confusingly similar and infers that paragraph 4(a)(i) of the Policy is satisfied.

2. According to the Complainant's contentions and evidence submitted within this proceeding, which were not disputed, the Respondent does not appear to be in any way related to the Complainant's business, does not act as the agent of the Complainant nor currently known and has never been known as "BOURSO", or any combination of such trademark.

Consequently, and in the absence of a Response, the Panel finds that the Respondent have no rights or legitimate interests in the disputed domain name, so that the requirements of paragraph 4(a)(ii) of the Policy are met.

3. The Panel finds that the Complainant's trademark BOURSO is inherently distinctive that it is most unlikely the Respondent might have registered the disputed domain name without full knowledge of it.

In view of the above and considering that the disputed domain name resolves to a parking page, it appears to be chosen and registered with the sole purpose of attracting Internet users to the site in the mistaken belief that they are visiting the Complainant´s site https://www.boursobank.com/. Such misleading behavior is indicative of bad faith within the meaning of paragraph 4(b)(iv) of the Policy, on the part of the Respondent.

In other words, in the absence of sufficient evidence to the contrary and rebuttal from the Respondent, the Panel infers the Respondent's activity is indicative of registration and use of the disputed domain name in bad faith.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **boursobonk.com**: Transferred

PANELLISTS

Name	**Hana Císlerová**

DATE OF PANEL DECISION 2024-03-06

Publish the Decision