# Decision for dispute CAC-UDRP-106279

| | |
|---|---|
| Case number | CAC-UDRP-106279 |
| Time of filing | 2024-02-22 10:13:51 |
| Domain names | boursorama.pics |

## Case administrator

| | |
|---|---|
| Name | Olga Slanařová (Case admin) |

## Complainant

| | |
|---|---|
| Organization | BOURSORAMA |

## Complainant representative

| | |
|---|---|
| Organization | NAMESHIELD S.A.S. |

## Respondent

| | |
|---|---|
| Name | Mihaela Sinclair |

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 registered European Union trademark BOURSORAMA n°001758614 registered on 19 October 2001 for goods and services in classes 9, 16, 35, 36, 38. This mark is in force.

FACTUAL BACKGROUND

The Complainant was founded in 1995 and is active in the field of online brokerage, online financial information and online banking with currently more than 6 million customers in France.

The Respondent registered the disputed domain name on 17 February 2024.

The disputed domain name resolves to a Registrar parking page without any links to third party websites ("Parked on the Bun! boursorama.pics has been registered at Porkbun but the owner has not put up a site yet. Visit again soon to see what amazing website they decide to build.").

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).

## 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 and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

## PROCEDURAL FACTORS

The CAC was contacted by Mr. S. M. Shoyaib who claimed he was notified by the Registrar about the proceedings regarding multiple domain names, one of them the disputed domain name from this proceeding. The CAC has informed Mr. Shoyaib about the proceeding. No further communication from Mr. Shoyaib was received.

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

1.
The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark.

The Complainant's European Union trademark BOURSORAMA n°001758614 (registered on 19 October 2001 for goods and services in classes 9, 16, 35, 36, 38) is identically included in the disputed domain name. In accordance with the well-established precedents (see WIPO Overview 3.0 para. 1.11.1) the TLD suffix in a domain name will be generally disregarded under the confusing similarity test as it is a technical requirement of registration.

2.
In the absence of any response, or any other information from the Respondent indicating the contrary, the Panel further holds that the Complainant successfully presented its prima facie case and that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

In particular, the Respondent is not affiliated with nor authorized by the Complainant in any way, and she is not related to the Complainant's business. In addition, the Panel does not dispose of any elements that could lead the Panel to the conclusion that the Respondent is commonly known by the disputed domain name or that she has acquired trademark rights pursuant to paragraph 4(c)(ii) of the Policy. Finally, the website to which the disputed domain names resolves is a Registrant parking page without any links to third party websites. Such use can neither be considered a bona fide offering of goods or services nor a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue in the sense of paragraph 4(c)(i) and (iii) of the Policy. In addition, the Respondent's concealment of her identity is also taken in consideration, and this Panel finds that it most likely that the Respondent selected the disputed domain name with the intention to take advantage of the Complainant´s registered trademark by registering domain name consisting of that trademark with the intent to attract Internet users for commercial gain.

3.
Finally, the Panel finds that the disputed domain name has been registered and is being used in bad faith.

According to the Complainant´s undisputed allegations, the Respondent does not use the disputed domain name for an active website. With comparative reference to the circumstances set out in paragraph 4(b) of the Policy deemed to establish bad faith registration and use, prior UDRP panels have found that the apparent lack of active use (e.g., to resolve to a website) of a domain name without any active attempt to sell or to contact the trademark holder (passive holding), does not as such prevent a finding of bad faith (see Actelion Pharmaceuticals, Ltd v. Whois Agent, Whois Privacy Protection Service, Inc / Jean-Paul Clozel, WIPO Case No. D2016-0068; Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003).

In the case at hand, the Panel finds that the further circumstances surrounding the registration - listed hereinafter - suggest that the Respondent was aware that she has no rights or legitimate interests in the disputed domain name, and that the disputed domain name has been registered and is being used in bad faith (see Actelion Pharmaceuticals, Ltd v. Whois Agent, Whois Privacy Protection Service, Inc / Jean-Paul Clozel, supra; America Online, Inc. v. Antonio R. Diaz, WIPO Case No. D2000-1460):

(1) Disputed domain name consists of the Complainant's entire trademark;

(2) Respondent’s failure to reply to the Complaint despite the fact that CAC has provided the Respondent with additional time and detailed description on how to log on to the platform;

(3) Respondent is hiding her identity;

(4) Complainant's registered trademark has existed for more than twenty years; and

(5) No plausible legitimate active use that the Respondent could make of the disputed domain name.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **boursorama.pics**: Transferred

## PANELLISTS

| Name | **Tobias Malte Müller** |
|---|---|

DATE OF PANEL DECISION 2024-04-03

Publish the Decision