Decision for dispute CAC-UDRP-106670

Case number	CAC-UDRP-106670
Time of filing	2024-07-04 18:57:36
Domain names	bourso-bankinvestissement.pro, boursobankinvestissement.pro

Case administrator

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

Complainant

Organization	BOURSORAMA

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	Didier Jur

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 names.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the prior international trademark BOURSOBANK No. 1757984 registered on August 28, 2023, and the French trademark BOURSO n°3009973 registered on February 22, 2000.

FACTUAL BACKGROUND

BOURSORAMA (the Complainant) grows in Europe with the emergence of e-commerce and the continuous expansion of the range of financial products online.

Pioneer and leader in its three core businesses, online brokerage, financial information on the Internet and online banking, BOURSORAMA based its growth on innovation, commitment and transparency. In France, BOURSORAMA is the online banking reference with over 6 million customers. The portal www.boursorama.com is the first national financial and economic information site and first French online banking platform, with over 41,5 million visits each month.

The disputed domain names were registered on July 3rd, 2024, and are inactive.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain names 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 names are 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 addition of the French generic term "INVESTISSEMENT" (meaning “INVESTMENT”) and a hyphen is not sufficient to escape the finding that the disputed domain names are confusingly similar to the trademark BOURSOBANK. It is well-established that “a domain name that wholly incorporates a Complainant’s registered trademark may be sufficient to establish confusing similarity for purposes of the UDRP”. Please see WIPO Case No. D2003-0888, Dr. Ing. h.c. F. Porsche AG v. Vasiliy Terkin.

On the contrary, the addition of the term "INVESTISSEMENT" reinforces the risk of confusion as it refers to the Complainant’s activities.

Moreover, the addition of the suffix “.PRO” does not change the overall impression of the designations as being connected to the trademark BOURSOBANK. It does not prevent the likelihood of confusion between the disputed domain names and the Complainant, its trademark and its domain names associated. Please see WIPO Case No. D2006-0451, F. Hoffmann-La Roche AG v. Macalve e-dominios S.A. (“It is also well established that the specific top level of a domain name such as “.com”, “.org” or “.net” does not affect the domain name for the purpose of determining whether it is identical or confusingly similar.”).

Thus, the disputed domain names are confusingly similar to the Complainant's trademark.

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 Policy).

According to the WIPO Case No. D2003-0455, Croatia Airlines d.d. v. Modern Empire Internet Ltd., the 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 known as the disputed domain names. Past panels have held that a respondent was not commonly known by a domain name if the Whois information was not similar to the disputed domain name. Please see for instance 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 known by the Complainant. The Respondent is not affiliated with nor authorized by the Complainant in any way. The Complainant contends that 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 trademark BOURSOBANK, or apply for registration of the disputed domain names.

Finally, the disputed domain names resolve to an inactive page. The Respondent did not use the disputed domain names, and it confirms that Respondent has no demonstrable plan to use the disputed domain names. Please see for instance Forum Case No. FA 1773444, Ashley Furniture Industries, Inc. v. Joannet Macket / JM Consultants ("The Panel finds that Respondent's lack of content at the disputed domain shows the lack of a bona fide offering of goods or services or a legitimate noncommercial or fair use per Policy ¶¶ 4(c)(i) and (iii).").

Accordingly, Respondent has no rights or legitimate interests on the disputed domain names.

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 Policy).

The disputed domain names are similar to the trademark BOURSOBANK, which has been in use since 1995, and has acquired a significant reputation in France and abroad in connection with online financial services.

Besides, the addition of the term "INVESTISSEMENT" to the term "BOURSOBANK" cannot be coincidental as it refers to the Complainant's activities and is written in French, where the Complainant has its registered office.

Moreover, most results of a search on the terms "BOURSOBANK INVESTISSEMENT" refer to the Complainant.

On those facts, 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. Please see for instance WIPO Case No. D2004-0673, Ferrari S.p.A v. American Entertainment Group Inc.

The disputed domain names resolve to an inactive pages. The Respondent has not demonstrated any activity in respect of the disputed domain names, and it is not possible to conceive of any plausible actual or contemplated active use of the domain names 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.

As prior WIPO UDRP panels have held, the incorporation of a famous mark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use.

Please see for instance:

- WIPO Case No. D2000-0003, Telstra Corporation Limited v. Nuclear Marshmallows;
- WIPO Case No. D2000-0400, CBS Broadcasting, Inc. v. Dennis Toeppen.

On these bases, the Respondent has registered and is using the disputed domain names 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 names resolve to an inactive page. The Respondent has not demonstrated any activity in respect of the disputed domain names, and it is not possible to conceive of any plausible actual or contemplated active use of the domain names 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.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **bourso-bankinvestissement.pro**: Transferred
2. **boursobankinvestissement.pro**: Transferred

PANELLISTS

Name	**Thomas Hoeren**

DATE OF PANEL DECISION 2024-07-31

Publish the Decision