Decision for dispute CAC-UDRP-106735

Case number	CAC-UDRP-106735
Time of filing	2024-07-22 10:45:22
Domain names	support-boursobank.com

Case administrator

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

Complainant

Organization	BOURSORAMA

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	johon

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 owner of the following trademarks:

- BOURSO (word), French trademark registration No. 3009973, registered on February 22, 2000, for services in classes 9, 35, 36, 38, 41, and 42;

- BOURSOBANK (figurative), International trademark registration No. 1757984, registered on August 28, 2023, for goods and services in classes 9, 16, 35, 36, 38 and 41, designating various jurisdictions.

The Complainant is also the owner of various domain names, including the trademark BOURSO, such as <boursorama.com>, registered on March 1, 1998, <bourso.com>, registered on January 11, 2000, and <boursobank.com> registered on November 23, 2005.

FACTUAL BACKGROUND

The Complainant operates online under the trademark BOURSOBANK, in the banking, brokerage and financial information fields. In France, the Complainant is the online banking reference with over 6 million customers. The portal at "www.boursorama.com" is the first national financial and economic information site, and first online banking platform in France.

The disputed domain name has been registered on July 19, 2024 and resolves to a login page displaying the figurative trademark BOURSOBANK, copying the Complainant's official customer access at the address https://clients.boursobank.com/connexion/ and inviting users to insert their usernames to access the website.

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.

In particular, the Complainant maintains that the disputed domain name is confusingly similar to its trademark BOURSOBANK. The disputed domain name incorporates this mark entirely and the addition of the descriptive term "support" and a hyphen is not sufficient to escape a finding of confusing similarity of the disputed domain name with the Complainant's mark.

The Complainant also maintains that the Respondent lacks rights or legitimate interests in the disputed domain name. The Complainant does not know the Respondent and the Respondent does not carry out any activity for, nor has any business with the Respondent. The Complainant did not authorize the Respondent to register and use the disputed domain name. Finally, the Respondent is not known by the disputed domain name. The disputed domain name resolves to a login page copying the Complainant's official customer access. This page could be used to collect personal information of the Complainant's customers. Thus, the Respondent's website can mislead the Complainant's costumers into believing that they are accessing the Complainant's website. Such use of the disputed domain name cannot be considered a bona fide offering of services or a fair use.

Lastly, the Complainant contends that the disputed domain name was registered and is being used in bad faith. According to the Complainant, the Respondent registered the disputed domain name with full knowledge of the Complainant's trademarks. As a matter of fact, (i) the trademark BOURSO has been used since 1995 and has gained significant reputation in France and abroad; (ii) a cursory search on the Internet through the keywords "support boursobank" has returned results linked to the Complainant; and (iii) the disputed domain name resolves to a login page copying the Complainant's official customer access at https://clients.boursobank.com/connexion/.

Finally, according to the Complainant the fact that the disputed domain name resolves to a login page copying the Complainant's official customer access is evidence of the fact that by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to his website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of his website. Besides, the Respondent can collect personal information through his website, namely passwords.

The Respondent has not filed an administratively compliant Response.

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 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

Confusing Similarity

The Complainant has shown that it is the owner of the trademarks BOURSO and BOURSOBANK, in various jurisdictions since 2000 and 2023 respectively.

It is well accepted that the first element functions primarily as a standing requirement. The standing test for confusing similarity involves a reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name. While each case is judged on its own merits, in cases where a domain name incorporates the entirety of a trademark, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing (section 1.7 of the WIPO Overview). As highlighted above, all the disputed domain names incorporate the Complainant's BOURSO and BOURSOBANK marks, preceded by the descriptive word "support" followed by a hyphen. The Complainant's marks are clearly recognizable within the disputed domain name and the addition of the descriptive term "support" and the hyphen cannot prevent a finding of confusing similarity under the first element (section 1.8 of the WIPO Overview).

For all the reasons mentioned above, the Complainant is satisfied that the first condition under the Policy is met.

Rights or Legitimate Interests

As also confirmed in the WIPO Overview, 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 burden of production shifts to the respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such appropriate allegations or evidence, a complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the Policy.

Based on the available evidence, the Respondent does not appear to be commonly known by the disputed domain names. The Respondent is not affiliated, nor engaged in any business with the Complainant. The Respondent is not a licensee of the BOURSO or BOURSOBANK marks, nor was ever authorised to include the Complainant's marks in the disputed domain name. UDRP panels have largely held that the composition of a domain name consisting of a trademark plus an additional term cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. In the Panel's opinion, the addition of the descriptive term "support" to the Complainant's mark tends to suggest sponsorship or endorsement by the trademark owner as the disputed domain name could be considered to be related to a website where the Complainant offers support and assistance to its customers. The hyphen, placed between the word "support" and the BOURSOBANK mark, further emphasizes this mark. Therefore, the disputed domain name is highly misleading for an Internet user.

Moreover, the Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services. At the time of the filing of the Complaint, the disputed domain name resolved to a login page reproducing the BOURSOBANK figurative mark in the same colours of the Complainant's mark, and a login space almost identical to the Complainant's official login page, but for the wording "support-boursobank.com" in lieu of "clients.boursobank.com". The login page is in French, uses the same colours of the official login page, and invites the customer to insert his/her username in order to continue, or to click on the space "identifiant oublié" (forgotten username), in case of need. The use of the disputed domain name for an unauthorised account access/hacking and impersonation can never confer rights or legitimate interests on the Respondent (section 2.13.1 of the WIPO Overview 3.0).

Accordingly, the Panel finds that the Complainant has successfully established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has failed to rebut to the Complainant's arguments. Therefore, the Panel is satisfied that also the second condition under the Policy is met.

Bad Faith

Regarding bad faith, the Panel agrees that at the time of the registration of the disputed domain name the Respondent was aware of the Complainant's marks. Indeed, the disputed domain name incorporates the Complainant's marks preceded by the descriptive word "support", which could very well refer to the Complainant's client "support" activity. Moreover, the Complainant's mark is distinctive and enjoys reputation at least in France, as also confirmed by numerous other UDRP decisions, such as CAC Case No. 106670, BOURSORAMA vs. Didier Jur and CAC Case No. 106606, BOURSORAMA vs. Peter Lawrence, etc., and the Respondent has shown familiarity with the Complainant's business and official website. Accordingly, the Panel finds that the Respondent knew the Complainant's mark when it registered the disputed domain name. The registration of a domain name, confusingly similar to a third party's renown and distinctive mark, without rights or legitimate interests, amounts to registration in bad faith.

With respect to use in bad faith, the Panel notes that the disputed domain name leads to a login page almost identical to the Complainant's official login page, depicting the Complainant's mark BOURSOBANK in identical colours and inviting users to either insert their usernames or click on a button to recover their usernames when these are forgotten. Presumably, once the usernames are inserted, the Complainant's customers are invited to insert their passwords to access a space on the Complainant's platform where those customers assume they will find their banking and financial information. At this point, the Respondent comes into possession of the customer's confidential information, which could be used for scams, phishing, or other kinds of illegitimate activities. Such behavior is manifestly evidence of bad faith.

In light of the foregoing, the Panel is satisfied that the Complainant has successfully proved that the Respondent registered and is being using the disputed domain name in bad faith.

Accordingly, the third and last condition under the Policy is also met.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **support-boursobank.com**: Transferred

PANELLISTS

Name	**Angelica Lodigiani**

DATE OF PANEL DECISION 2024-08-30

Publish the Decision