# Decision for dispute CAC-UDRP-106811

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| Case number | CAC-UDRP-106811 |
| Time of filing | 2024-08-23 12:58:01 |
| Domain names | boursorama-finance.info |

## Case administrator

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| Name | Olga Slanařová (Case admin) |

## Complainant

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| Organization | BOURSORAMA |

## Complainant representative

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| Organization | NAMESHIELD S.A.S. |

## Respondent

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| Organization | Name Name |

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 EUIPO trademark registration number 001758614 for the mark BOURSORAMA registered on October 19, 2001.

FACTUAL BACKGROUND

The Complainant is a pioneer and leader in its three core businesses: online brokerage, financial information on the Internet, and online banking. In France, BOURSORAMA is the leading online banking service, with over 4.7 million customers. The Complainant's portal is the top national site for financial and economic information, as well as the leading French online banking platform. The Complainant also owns several domain names incorporating the BOURSORAMA mark, including <boursorama.com>, registered on March 1, 1998.

The disputed domain name was registered on August 22, 2024, and resolves to a parking page with commercial links. Additionally, MX servers are configured.

PARTIES CONTENTIONS

Complainant:

(i) The Complainant is the owner of EUIPO trademark registration number 001758614 for the mark BOURSORAMA, registered on October 19, 2001. The disputed domain name is confusingly similar to the Complainant's mark, as it incorporates the mark in its entirety with the addition of a generic term and the ".info" gTLD.

(ii) The Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not related to the Complainant's business in any way and is not commonly known by the disputed domain name. The Respondent is neither affiliated with nor authorized by the Complainant to use the BOURSORAMA trademark. The Complainant has no business relationship with the Respondent and does not engage in any activities for the Respondent. The Respondent does not use the disputed domain name in connection with a bona fide offering of goods or services, nor for legitimate noncommercial or fair use, as the disputed domain name resolves to a parking page with commercial links. Additionally, MX servers are configured.

(iii) The Respondent registered and is using the disputed domain name in bad faith. The Respondent had knowledge of the Complainant's rights in the BOURSORAMA mark before registering the disputed domain name. The disputed domain name points to a parking page with commercial links. The Respondent has attempted to attract Internet users for commercial gain by exploiting the Complainant's trademarks, which constitutes evidence of bad faith. The disputed domain name is also set up with MX records, suggesting it may be actively used for email purposes.

Respondent:

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 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(a) of the Rules for the UDRP ('the Policy') instructs this Panel to "decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable."

Paragraph 4(a) of the Policy requires that Complainant must prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

(1) the domain name registered by respondent is identical or confusingly similar to a trademark or service mark in which complainant has rights; and

(2) respondent has no rights or legitimate interests in respect of the domain name; and

(3) the domain name has been registered and is being used in bad faith.

In view of the Respondent's failure to submit a response, the Panel shall decide this administrative proceeding on the basis of the Complainant's undisputed representations pursuant to paragraphs 5(f), 14(a) and 15(a) of the Rules and draw such inferences it considers appropriate pursuant to paragraph 14(b) of the Rules. The Panel is entitled to accept all reasonable allegations and inferences set forth in the Complaint as true unless the evidence is clearly contradictory. See Vertical Solutions Mgmt., Inc. v. webnet-marketing, inc., FA 95095 (FORUM July 31, 2000) (holding that the respondent's failure to respond allows all reasonable inferences of fact in the allegations of the complaint to be deemed true); see also Talk City, Inc. v. Robertson, D2000-0009 (WIPO Feb. 29, 2000) ("In the absence of a response, it is appropriate to accept as true all allegations of the Complaint.").

Rights

The Complainant asserts rights in the BOURSORAMA mark, as set forth in the 'Identification of Rights' section above. The Panel notes that the Complainant's EUIPO trademark registration is sufficient to establish such rights. Since the Complainant has provided evidence of this registration with the EUIPO, the Panel concludes that the Complainant has successfully demonstrated its rights in the BOURSORAMA mark. The Complainant argues that the disputed domain name, **<boursorama-finance.info>**, is confusingly similar to its mark because it incorporates the BOURSORAMA mark in full, with the addition of the generic term "finance" and the ".info" gTLD. The Panel observes that using a mark in its entirety, combined only with a descriptive or generic term and a gTLD, does not adequately differentiate a disputed domain name for the purposes of paragraph 4(a)(i) of the Policy. See MTD Products Inc v J Randall Shank, FA 1783050 (Forum June 27, 2018) ("The disputed domain name is confusingly similar to Complainant's mark as it wholly incorporates the CUB CADET mark before appending the generic terms 'genuine' and 'parts' as well as the '.com' gTLD."); see also Wiluna Holdings, LLC v. Edna Sherman, FA 1652781 (Forum Jan. 22, 2016) (Finding the addition of a generic term and gTLD is insufficient in distinguishing a disputed domain name from a mark under Policy paragraph 4(a)(i).). The Panel finds that the disputed domain name incorporates the BOURSORAMA mark in its entirety, with the mere addition of the generic term "finance," a hyphen, and the ".info" gTLD. Therefore, the Panel concludes that the disputed domain name is confusingly similar to the BOURSORAMA mark under paragraph 4(a)(i) of the Policy.

No rights or legitimate interests

The Complainant must first make a prima facie case that the Respondent lacks rights and legitimate interests in the disputed domain names under Policy paragraph 4(a)(ii), then the burden shifts to the Respondent to show it does have rights or legitimate interests. See Croatia Airlines d. d. v. Modern Empire Internet Ltd., WIPO Case No. D2003-0455 (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 names. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a) (ii) of the UDRP). See also Advanced International Marketing Corporation v. AA-1 Corp, FA 780200 (FORUM Nov. 2, 2011) (finding that a complainant must offer some evidence to make its prima facie case and satisfy Policy paragraph 4(a)(ii).

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not known by the disputed domain name and has no affiliation with, or authorization from, the Complainant in any manner. The Complainant is not engaged in any activity or business with the Respondent, and no license or permission has been granted to the Respondent to use the Complainant's BOURSORAMA trademark or to register the disputed domain name. In the absence of a response, WHOIS information can be used to determine whether the Respondent is commonly known by the disputed domain name under Policy paragraph 4(c)(ii). The WHOIS information for the disputed domain name lists the registrant as "Name Name." There is no evidence in the record to suggest that the Respondent was authorized to use the BOURSORAMA mark. As a result, the Panel concludes that the Respondent is not commonly known by the disputed domain name under Policy paragraph 4(c)(ii).

The Complainant also argues that the Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services, nor for legitimate noncommercial or fair use. The Panel notes that the disputed domain name resolves to a parking page with commercial links. The Panel observes that the Respondent's use of the disputed domain name to redirect users to third-party services, whether competing or non-competing, may indicate that the Respondent is not making a bona fide offering of goods or services, nor engaging in legitimate noncommercial or fair use under Policy paragraph 4(c)(i) or (iii). See TGI Friday's of Minnesota, Inc. v. Tulip Company / Tulip Trading Company, FA 1691369 (Forum Oct. 10, 2016) ("Respondent uses the domain for a parking page displaying various links that consumers are likely to associate with Complainant, but that simply redirect to additional advertisements and links that divert traffic to third-party websites not affiliated with Complainant… The Panel here finds that Respondent is not using the domain name in connection with a bona fide offering of goods or services."). The Complainant has provided evidence showing that the disputed domain name resolves to a page displaying third-party links that are not affiliated with the Complainant. Therefore, the Panel finds that the Respondent is not using the disputed domain name for a bona fide offering of goods or services, nor for legitimate noncommercial or fair use under Policy paragraph 4(c)(i) or (iii).

The Panel finds that the Complainant has made out a prima facie case that arises from the considerations above. All of these matters go to make out the prima facie case against the Respondent. As the Respondent has not filed a Response or attempted by any other means to rebut the prima facie case against it, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

Bad faith

The Complainant argues that the Respondent registered and is using the disputed domain name in bad faith. The Respondent directs the disputed domain to a parking page containing commercial links. The Panel finds that using a disputed domain name to redirect consumers to competing or unrelated goods and services may serve as evidence of bad faith disruption of the Complainant's business under Policy paragraph 4(b)(iii), as well as an attempt to attract users for commercial gain under Policy paragraph 4(b)(iv). See block.one v. Negalize Interactive Things, FA 1798280 (Forum Aug. 21, 2018) ("Offering links to competing

products or services can demonstrate bad faith under Policy paragraph 4(b)(iii) where a respondent registers a domain name that is confusingly similar to the mark of another."); see also American Council on Education and GED Testing Service LLC v. Anthony Williams, FA1760954 (Forum Jan. 8, 2018) ("Respondent's hosting of links to Complainant's competitors demonstrates bad faith registration and use of the <geddiploma.org> domain name pursuant to Policy paragraph 4(b)(iv)"). As previously noted, the Complainant has provided evidence showing that the disputed domain name resolves to a page displaying third-party links that are not affiliated with the Complainant. Accordingly, the Panel finds that the Respondent registered and is using the disputed domain name in bad faith under Policy paragraph 4(b)(iii) or (iv).

The Complainant also asserts that the Respondent was aware of the Complainant's rights in the BOURSORAMA mark prior to registering the disputed domain name. The Complainant highlights that in France, BOURSORAMA is a well-known online banking service with over 4.7 million customers. The Complainant's portal, www.boursorama.com, is the leading national financial and economic information site as well as the top French online banking platform. Given the notoriety of the Complainant's mark and the manner in which the disputed domain name was used, the Panel infers that the Respondent had knowledge of the Complainant's rights in the BOURSORAMA mark at the time of registration and finds that the Respondent registered the disputed domain name in bad faith under Policy paragraph 4(a)(iii).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **boursorama-finance.info**: Transferred

## PANELLISTS

| Name | **Mr. Ho-Hyun Nahm Esq.** |
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DATE OF PANEL DECISION 2024-09-21

Publish the Decision