Decision for dispute CAC-UDRP-106804

Case number	CAC-UDRP-106804
Time of filing	2024-08-19 10:01:36
Domain names	weboursobank.com

Case administrator

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

Complainant

Organization	BOURSORAMA

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	Myy Nnname

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

In these proceedings, the Complainant relies on the following trademark:

- “BOURSO”, French Trademark Registration No. 3009973, filed on February 22, 2000, and duly renewed, in the name of BOURSORAMA S.A. (the Complainant);

- “BOURSOBANK”, International Registration No. 1757984, filed on August 28, 2023, in the name of BOURSORAMA S.A. (the Complainant).

It is worth noting that, the Complainant owns several similar trademarks, e.g. for “BOURSORAMA”, which have not been cited in these proceedings.

FACTUAL BACKGROUND

The Complainant, operating under the name of BOURSOBANK, is a French company founded in 1995, active and known in the financial field, namely in online banking, online brokerage and financial information on the Internet. Ever since, the Complainant has grown and acquired commercial presence in France and abroad, mainly through its portal www.boursorama.com.

The Complainant owns a fair-sized portfolio of trademarks including the wording "BOURSO", among which a French registration for “BOURSORAMA” dating back to 1998. It also owns a multitude of related domain names, such as <boursorama.com> since March 1, 1998; <bourso.com> since January 11, 2000, and; <boursobank.com> since November 23, 2005.

The disputed domain name <WEBOURSOBANK.COM> was registered on August 14, 2024 by the Respondent (as confirmed by the Registrar).

PARTIES CONTENTIONS

COMPLAINANT

The Complainant contends that the disputed domain name is confusingly similar to its BOURSO and BOURSOBANK trademarks, as it fully incorporates these trademarks. This last element is sufficient to support the finding that the disputed domain name is confusingly similar to the Complainant's trademarks. Indeed, the mere addition of the simple letters “WE” before the Complainant’s trademark BOURSOBANK does not change the overall impression of a most likely connection with the trademark BOURSOBANK of the Complainant. As to the gTLD “.com”, the Complainant suggests that it should be disregarded, as per the usual practice.

The Complainant maintains that the Respondent lacks rights or legitimate interests in the disputed domain name because the Respondent is not known by the disputed domain name, the Complainant is not affiliated with nor has it ever authorised the Respondent to register its trademark as a domain name and the Complainant has no business with the Respondent.

According to the Complainant, given the distinctiveness and reputation of the BOURSO and BOURSOBANK trademarks, the Respondent registered the disputed domain name with full knowledge of the Complainant's trademarks, and this is sufficient evidence of the fact that the disputed domain name was registered in bad faith. The addition of the letters “WE” does not change this view.

With respect to use in bad faith, the Complainant points out that the Respondent has kept the domain name as a parking page and that MX servers have been configured, which in combination with the well-known character of the Complainant’s trademarks may be considered as a clear indication of bad faith.

For all these reasons, the Complainant concludes that the Respondent registered and used the disputed domain name in bad faith.

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).

The disputed domain name consists of the Complainant's whole trademark (BOURSOBANK), the addition of the simple letters “WE” in front not being sufficient to escape the finding that the disputed domain name is confusingly similar to the trademark of the Complainant.

As far as the gTLD ".com" is concerned, it is generally recognized that top level domains do not have any bearing in the assessment of identity or confusing similarity, according to paragraph 4(a)(i) of the Policy.

Hence, the Panel is satisfied that the first requirement under the Policy is met.

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).

Since proving a negative fact is almost impossible, panelists in UDRP proceedings have generally agreed that it is sufficient for the Complainant to establish a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name to shift the burden of proof to the Respondent.

In the case at issue, the Complainant argued that it had never authorised the Respondent to register the BOURSOBANK trademark in a domain name, and that it had never licensed its trademark to the Respondent.

Furthermore, the Respondent has not demonstrated any use of the disputed domain name in connection with a bona fide offering of goods and services or a legitimate non-commercial or fair use of the disputed domain name.

Finally, there is no other evidence in the case file that could demonstrate that the Respondent has been commonly known by the disputed domain name.

In view of the foregoing, the Panel is satisfied that the Complainant has established a prima facie case that the Respondent lacks rights and legitimate interests in the disputed domain name. In order to rebut the Complainant's arguments, the Respondent had the possibility to make his own defense. However, the Respondent has chosen not to file a Response.

Therefore, the Panel is satisfied that also the second requirement under the Policy is met.

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).

As far as registration in bad faith is concerned, given the reputation of the Complainant's trademark in the field of online banking / finance and the fact that the disputed domain name fully incorporates this trademark, it is rather clear that, at the time of the registration of the disputed domain name, the Respondent was well aware of the Complainant's trademark. The registration as domain name of a third party's well-known trademark with full knowledge of the fact that the rights over this trademark belong to a third-party amounts to registration in bad faith.

With respect to use in bad faith, the disputed domain name resolves to a parking page. For this Panel, such behaviour combined to the well-known character of the Complainant’s trademark clearly amounts to use in bad faith. At the same time, the Respondent has configured MX servers, which could be actively used in bad faith through e-mails. Therefore, it is impossible for this Panel to conceive any plausible active use of the disputed domain name by the Complainant that would be legitimate.

Therefore, the Panel finds it clear that the disputed domain name was used in bad faith.

For all circumstances mentioned above, the Panel is satisfied that also the third requirement under the Policy is satisfied.

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 name wholly incorporates the Complainant's trademark next to simple letters. The disputed domain name is therefore confusingly similar to the Complainant's trademark.

The Respondent was not authorised to include the Complainant's trademark in the disputed domain name, and the Complainant never licensed its trademark to the Respondent. The Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services, or a legitimate non-commercial or fair use.

The Respondent registered the disputed domain name with full knowledge of the Complainant's well-known trademark. His use of the disputed domain name is in bad faith, as there is no conceivable use of the disputed domain name that could amount to a legitimate use.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **weboursobank.com**: Transferred

PANELLISTS

Name	Sozos-Christos Theodoulou

DATE OF PANEL DECISION 2024-09-21

Publish the Decision