Decision for dispute CAC-UDRP-107000

Case number	CAC-UDRP-107000
Time of filing	2024-10-25 10:52:19
Domain names	boursoramaclients.net

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	BOURSORAMA

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Organization	bourso

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 European trademark BOURSORAMA No 1758614 registered since December 19, 2001, and French trademark BOURSORAMA No 98723359 registered since March 13, 1998. The Complainant also owns domain names including the same distinctive wording BOURSORAMA, such as the domain name <boursorama.com>, registered since March 01, 1998 and <bourso.com>, registered since January 11, 2000.

The disputed domain name <BOURSORAMACLIENTS.NET> was registered on October 07, 2024.

PARTIES CONTENTIONS

The Complainant contends that it grows in Europe with the emergence of e-commerce and the continuous expansion of the range of financial products online with three core businesses – online brokerage, financial information on the Internet and online banking. In France, the Complainant 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 Complainant states that the disputed domain name is confusingly similar to its trademark BOURSORAMA and its domain

names. The addition of the generic term “CLIENTS” is not sufficient to escape the finding that the disputed domain name is confusingly similar to the Complainant’s trademark. The domain name that wholly incorporates a Complainant’s registered trademark may be sufficient to establish confusing similarity for purposes of the UDRP.

The addition of the gTLD suffix “.NET” does not change the overall impression of the designation as being connected to Complainant’s trademark. It does not prevent the likelihood of confusion between the disputed domain name and Complainant, its trademark and its domain names associated (WIPO Case No. D2006-0451, F. Hoffmann-La Roche AG v. Macalve e-dominios S.A.)

Complainant’s rights to BOURSORAMA trademark have been confirmed by many UDRP decisions:

- CAC Case No. 102278, BOURSORAMA v. yvette cristofoli, <boursorama-ecopret.com>;
- CAC Case No. 101844, BOURSORAMA SA likid french, <client-boursorama.net>;
- CAC Case No. 101629, BOURSORAMA SA MOHAMED le petit, <m-clients-boursorama.com>.

The Complainant asserts that the Respondent is not known as the disputed domain name. Past panels have held that a Respondent was not commonly known by a disputed domain name if the Whois information was not similar to the disputed domain name. Thus, the Respondent is not known as the disputed domain name.

The Respondent is not known by the Complainant. The Complainant contends that 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 name. 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 BOURSORAMA, or apply for registration of the disputed domain name. The disputed domain name is not active, and Respondent therefore did not make any use of disputed domain name since its registration. This confirms that Respondent has no demonstrable plan to use the disputed domain name. It demonstrates a lack of legitimate interests in respect of the disputed domain name.

The Complainant concludes that the disputed domain name includes the well-known trademark BOURSORAMA and that the Respondent has registered and used the disputed domain name with full knowledge of the Complainant's trademark.

As the disputed domain name is not active, the Complainant contends that the Respondent has not demonstrated any activity in respect of the disputed domain name, and it is not possible to conceive of any plausible actual or contemplated active use of the disputed domain name 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.

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is 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

For the Complainant to succeed it must prove, within the meaning of paragraph 4(a) of the Policy, that:
(i) The domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
(ii) The respondent has no rights or legitimate interests in respect of the domain name; and
(iii) The domain name has been registered and is being used in bad faith.

I. Identical or Confusingly Similar

The Complainant has established the fact that it has valid rights for the EU trademark No 1758614 BOURSORAMA registered on October 19, 2001, French trademark BOURSORAMA No 98723359 registered since March 13, 1998, and that it owns domain names including the same distinctive wording BOURSORAMA. The disputed domain name has been registered on October 7, 2024, i.e. more than 25 years after the French trademark registration, and wholly incorporates the Complainant's trademark.

The term "CLIENTS" is not sufficient to exclude the likelihood of confusion with the Complainant's trademark. The term "BOURSORAMA" used in the disputed domain name is the dominant element of the domain name and the addition of this generic term does not change the overall impression of the designation as being connected to the Complainant or its trademark and strengthens the likelihood of confusion between the disputed domain name and Complainant's trademark as could be considered as the "clients of the Complainant".

The generic top-level domain "NET" should be disregarded in the assessment under the Policy when comparing disputed domain name and trademarks and does not change the overall impression of the designation as being connected to Complainant's trademark.

The Panel therefore considers the disputed domain name to be confusingly similar to the Complainant's trademark BOURSORAMA which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

II. Rights or Legitimate Interests

The Complainant has established a prima facie case (not challenged by the Respondent) that the Respondent has no rights or legitimate interests in the disputed domain name, since the Respondent is not related in any way with the Complainant and there is no indication that the Respondent is commonly known by the term "BOURSORAMA" or its variations.

There is no website on the disputed domain name and the disputed domain name and there is no indication that the Respondent is using the disputed domain name in connection with a bona fide offering of goods or services.

Moreover, according the WHOIS records the name of the Respondent should be "b.c. boursorama client" from organization "bourso", whereas "b.c." should be title, "boursorama" should be first name and "client" should be the last name of the Respondent. The repetition of the substantial parts of the disputed domain name in the name of the Respondent as registered in WHOIS database, is an unfair practice, means that the Respondent tries to hide its identity as the registered name does not appear to be the name of a real person and the Respondent, therefore, is not known as the disputed domain name.

The Panel therefore considers that the Respondent has no rights or legitimate interests in respect of the disputed domain name within the meaning of paragraph 4(a)(ii) of the Policy.

III. Registered and Used in Bad Faith

The Respondent has registered the disputed domain name which consists the full content of the Complainant's trademark "BOURSORAMA". There are no doubts that the Complainant's trademark is distinctive and widely known and this could be easily verified by the Respondent before the registration of the disputed domain name. It is therefore evident that the Respondent had or should have the Complainant and its trademark in mind when registering the disputed domain name and therefore could not be in good faith when registering it. Besides that, according the WHOIS database the country of the seat/residence of the Respondent should be France and it is hard to believe that the Respondent has not the knowledge of the Complainant and its trademarks when registering the disputed domain name.

Furthermore, the disputed domain name remains inactive as of the date of this decision. The incorporation of a famous trademark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use.

Considering the (i) confusing similarity between the Complainant's trademark and the disputed domain name, (ii) long time between the registration of the Complainant's trademark and the disputed domain name, (iii) inactive website, (iv) distinctiveness of the Complainant's trademark, and (v) the failure of the Respondent to submit a response or to provide any evidence of good faith use, the Panel finds that the disputed domain name has been registered and is being used in bad faith.

The Panel therefore considers that 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.

The Panel finally considers that the Complainant has shown that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights, the Respondent has no rights or legitimate interests in respect of the disputed domain name and the disputed domain name has been registered and is being used in bad faith. The Complainant has thus established all three elements of paragraph 4(a) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **boursoramaclients.net**: Transferred

PANELLISTS

Name	**Petr Hostaš**

DATE OF PANEL DECISION 2024-11-18

Publish the Decision