Decision for dispute CAC-UDRP-107046

Case number	CAC-UDRP-107046
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Domain names	bouirsorama.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	BOURSORAMA

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Organization	Fundacion Comercio Electronico

OTHER LEGAL PROCEEDINGS

The Panel is unaware of any pending or decided legal proceedings relating to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant owns European trademark for “BOURSORAMA” n° 1758614, registered on 26 November 2001.

FACTUAL BACKGROUND

The Complainants has 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 the first French online banking platform.

The Complainant also owns a number of domain names, including the same distinctive wording “BOURSORAMA”, such as the domain name <boursorama.com>, registered since 1998.

The disputed domain name was registered on November 5, 2024, and resolves to a parking page with commercial links.

PARTIES CONTENTIONS

COMPLAINANT:

A) The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights

The Complainant states that the disputed domain name is confusingly similar to its trademark, “BOURSORAMA”.

Indeed, the obvious misspelling of the Complainant’s trademark BOURSORAMA (i.e. the addition of the letter “I”) is characteristic of a typosquatting practice intended to create confusing similarity between the Complainant’s trademark and the disputed domain name.

Previous panels have found that the slight spelling variations does not prevent a domain name from being confusingly similar to the Complainant’s trademark.

The Complainant contends that the addition of the gTLD “.COM” 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 name associated.

B) The Respondent has no rights or legitimate interests in respect of the disputed domain name

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.

The Respondent is not known by the Complainant. The Complainant contends that 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 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.

Besides, the Complainant also claims that the disputed domain name is a typosquatted version of the trademark “BOURSORAMA”. Typosquatting is the practice of registering a domain name in an attempt to take advantage of Internet users’ typographical errors and can be evidence that a respondent lacks rights and legitimate interests in the domain name.

Furthermore, the disputed domain name resolves to a parking page with commercial links. Past panels have found it is not a bona fide offering of goods or services or legitimate non-commercial or fair use.

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

C) The disputed domain name was registered and is being used in bad faith

The disputed domain name is confusingly similar to the Complainant's well-known trademark, “BOURSORAMA”.

Therefore, it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's trademark.

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 name with full knowledge of the Complainant's trademark.

Moreover, the Complainant states the misspelling of the trademark “BOURSORAMA” was intentionally designed to be confusingly similar with the Complainant’s trademark. Previous UDRP panels have seen such actions as evidence of bad faith.

Moreover, the disputed domain name resolves to a parking page with commercial links. The Complainant contends the Respondent has attempted to attract Internet users for commercial gain to his own website thanks to the Complainant’s trademarks for its own commercial gain, which is an evidence of bad faith.

On these bases, the Complainant concludes that the Respondent has registered and is using the disputed domain name in bad faith.

RESPONDENT

No administratively compliant Response was filed.

RIGHTS

To the satisfaction of the Panel, the Complainant has shown that the disputed domain name is identical or confusingly similar to the trademark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

To the satisfaction of the Panel, the Complainant has 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

To the satisfaction of the Panel, the Complainant has 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 have been met, and there is no other reason why it would be unsuitable to provide the Decision.

PRINCIPAL REASONS FOR THE DECISION

1. Identical or Confusingly Similar

First, the Panel is satisfied that the Complainant has shown it owns rights in the "BOURSORAMA" trademark, which was registered in 2001, and evidence was provided proving this.

Turning to analyze whether the disputed domain name and the trademark are confusingly similar, the Panel notes, based on the record at hand, that the disputed domain name almost reproduces the trademark in its totality, namely "BOURSORAMA", with the addition of the letter “i” in the middle of the trademark to appear as “BOUIRSORAMA”.

As discussed in paragraph 1.9 WIPO of Overview 3.0, the consensus view, which this Panel finds persuasive, is that “a domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element”. The practice ‘typosquatting’ is common in this field, consisting of insignificant modifications to trademarks to seek to wrongfully take advantage of errors by users in typing domain names into their web browser’s location bar.

In the case at hand, the disputed domain name is visually similar to the “BOURSORAMA”, trademark differing only by the addition of the letter “i”, and this slight difference is immaterial to dispel the confusing similarity between the disputed domain name and the Complainant’s trademark.

Consequently, the Panel determines that the Complaint has satisfied the Policy's first element set under paragraph 4(a)(i).

2. Rights or Legitimate Interests

Based on the evidence on record and acknowledging that the Respondent failed to produce any allegations or evidence necessary to demonstrate its rights or legitimate interests in the disputed domain name, the Panel must turn to the uncontested facts.

The uncontested facts indicate that:

- The Respondent is not commonly known by the disputed domain name;
- The Respondent is not affiliated with the Complainant;
- The Respondent is not authorized to carry out any business activity for the Complainant;
- The Respondent has no license or authorization to use the trademarks;
- The Respondent has not been authorized to apply for registration of the disputed domain name;
- The disputed domain name is a typosquatted version of the trademark “BOURSORAMA”.

Based on the above, the record at hand, and on the balance of probability, and considering that the Respondent has failed to respond to the Complainant's contentions, the Respondent has consequently not rebutted the prima facie case, as described in paragraph 2.1 of WIPO 3.0 Overview.

In addition to this, the Respondent's use of the trademark in a typosquatted version of the trademark, namely, “BOUIRSORAMA”, seems to indicate, on the balance of probabilities, that the Respondent not only was aware of the Complainant but deliberately targeted the Complainant to benefit from the appearance of legitimate association to the Complainant and confuse Internet users as to the source of sponsorship. A practice like this can never be considered a bona fide offering under the Policy, but further analysis will be conducted under the last element below.

These facts lead the Panel to conclude that the Respondent did not have rights or legitimate interests in the disputed domain name.

Consequently, the Panel determines that the Respondent has no rights or legitimate interests in the disputed domain name. Subsequently, the Complainant has fulfilled the second requirement set under paragraph 4(a)(ii) of the Policy.

3. Registered and Used in Bad Faith

Based on the record and evidence, the Panel finds that the Respondent was likely aware of the Complainant and had the Complainant's trademark in mind when registering the disputed domain name, as is common with typosquatting cases.

If this is indeed the case, the Respondent appears to have targeted the Complainant on the balance of probabilities.

All the preceding analysis leaves the Panel no other option than to conclude that the most likely intention of the Respondent was to intentionally attempt to attract, for commercial gain, Internet users to its website/disputed domain name, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website and/or disputed domain name, as per illustrated under paragraph 3.1 of WIPO 3.0 Overview.

Accordingly, the Panel finds that the Complainant has satisfied the final element required under paragraph 4(a)(iii) of the Policy.

In light of the case's circumstances, based on the available records, the Panel finds that the Complainant has proven that the disputed domain name was registered and is used in bad faith according to paragraph 4(a)(iii) of the Policy.

4. Decision

For the preceding reasons and in concurrence with the provisions specified under Paragraph 4(i) of the Policy and Paragraph 15 of the Rules, the Panel orders the transfer of the disputed domain name to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **bouirsorama.com**: Transferred

PANELLISTS

Name	**Rodolfo Rivas Rea**

DATE OF PANEL DECISION 2024-12-05

Publish the Decision