

Decision for dispute CAC-UDRP-103823

Case number	CAC-UDRP-103823
Time of filing	2021-05-25 09:12:59
Domain names	boursorama-services.casa, boursorama-services.club

Case administrator

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

Organization	BOURSORAMA SA
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Complainant representative

Organization	Nameshield (Enora Millocheau)
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Respondent

Organization	gazi dulal
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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 names.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of several trademarks BOURSORAMA, such as the European trademark n° 1758614 registered since 19 October 2001 and covering goods and services in international classes 09, 16, 35, 36, 38, 41 and 42.

The Complainant also owns a number of domain names, including the same wording BOURSORAMA, such as the domain name <boursorama.com>, registered since March 1, 1998.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

Founded in 1995, the Complainant grows in Europe with the emergence of e-commerce and the continuous expansion of the range of financial products online.

Pioneer and leader in its three core businesses, online brokerage, financial information on the Internet and online banking, BOURSORAMA S.A. based its growth on innovation, commitment and transparency.

In France, BOURSORAMA is the online banking reference with over 2.8 million customers. The portal www.boursorama.com is the first national financial and economic information site and first French online banking platform.

The disputed domain names were registered on May 18, 2021.

The disputed domain name <boursorama-services.casa> resolves to an inactive page and the disputed domain name <boursorama-services.club> resolves to a parking page with commercial links.

MX servers are configured on both domain names.

The Complainant states that the disputed domain names are confusingly similar to its trademark BOURSORAMA. The trademark BOURSORAMA is included in its entirety.

The addition of term “SERVICES” is in the view of Complainant not sufficient to escape the finding that the domain names are confusingly similar to the trademark and branded goods BOURSORAMA.

Moreover, the Complainant contends that the addition of the New GTLD suffix “.CASA” and “.CLUB” do not change the overall impression of the designations as being connected to the trademark BOURSORAMA of the Complainant. It does not prevent the likelihood of confusion between the disputed domain names and the Complainant, its trademark and its domain names associated.

Thus, the disputed domain names are in the view of Complainant confusingly similar to the Complainant's trademark BOURSORAMA.

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

Thus, the Complainant contends that the Respondent has registered and used the disputed domain names with full knowledge of the Complainant's trademark.

Moreover, the disputed domain name <boursorama-services.casa> resolves to an inactive page. 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.

Furthermore, the disputed domain name <boursorama-services.club> resolves to a parking page with commercial links. The Complainant contends the Respondent has attempt 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.

Finally, the disputed domain names have been set up with MX servers which suggests that it may be actively used for e-mail purposes. This is also indicative of bad faith registration and use because any e-mail emanating from the disputed domain names could not be used for any good faith purpose.

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

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names are 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 names (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 names have been registered and are 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

A. Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The Complainant has rights in the mark by virtue of its registered trademark BOURSORAMA.

The Panel accepts that the disputed domain names are confusingly similar to the trademark as they both fully incorporate the well-established trademark BOURSORAMA and the addition of the generic term "Services" at the end of the second level domain name is not sufficient to escape the finding that the disputed domain names are confusingly similar to the trademark BOURSORAMA. It does not change the overall impression of the designation as being connected to the Complainant's trademark BOURSORAMA.

It is well-established that "a domain name that wholly incorporates a Complainant's registered trademark may be sufficient to establish confusing similarity for purposes of the UDRP" (WIPO Case No. D2003-0888, Dr. Ing. h.c. F. Porsche AG v. Vasiliy Terkin).

Moreover, the addition of the new GTLD ".club" or "casa" does not change the overall impression of the designation as being connected to the trademark BOURSORAMA of the Complainant. It does not prevent the likelihood of confusion between the disputed domain names and the Complainant, its trademark and its domain names associated.

Thus, the disputed domain names are confusingly similar to the Complainant's trademark BOURSORAMA.

B. Rights or Legitimate Interests

When a respondent remains completely silent in the face of a prima facie case that it lacks any rights or legitimate interests in respect of a domain name, a complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the Policy. Here the Complainant has presented an abundance of evidence to show that the Respondent has no plausible right or legitimate interest in respect of the disputed domain names and the Panel so finds.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain names.

C. Bad Faith

The Panel believes furthermore that Respondent registered the disputed domain names with knowledge of Complainant's rights. The disputed domain names were registered about twenty years after the registration of the well known trademark and the domain names of Complainant and Complainant used it widely since then.

Given the distinctiveness of the Complainant's trademarks and reputation, it is reasonable to infer that the Respondent has registered the disputed domain names with full knowledge of the Complainant's trademark.

The Panel is also satisfied that the disputed domain names have been used in bad faith. The Complainant has provided evidence that the website to which the disputed domain name <boursorama-services.club> resolves is a parking page with commercial links. The Respondent has made no submissions in these proceedings and so the Panel infers that the Respondent has allowed the disputed domain name <boursorama-services.club> to be used with an intent to attract Internet users on its website by creating a likelihood of confusion with the Complainant's trademark as to source, affiliation or endorsement.

Moreover, the disputed domain name <boursorama-services.casa> resolves to an inactive page. The Panel finds that the Respondent has not demonstrated any activity in respect of the disputed domain name <boursorama-services.casa>, and it is not possible to conceive of any plausible actual or contemplated active use of the 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.

On these grounds, the Panel concludes that the Respondent has registered and is using both of the disputed domain names in bad faith.

For the reasons stated above, it is the decision of this Panel that the Complainant has satisfied 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. **BOURSORAMA-SERVICES.CASA**: Transferred
2. **BOURSORAMA-SERVICES.CLUB**: Transferred

PANELLISTS

Name	Jan Christian Schnedler, LL.M.
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DATE OF PANEL DECISION 2021-06-17

Publish the Decision
