

Decision for dispute CAC-UDRP-104899

Case number	CAC-UDRP-104899
Time of filing	2022-10-07 08:46:07
Domain names	boursorama-clients.info

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 S.A.S.
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Respondent

Organization	eurogestion
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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 name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the European trademark BOURSORAMA number 1758614 registered since December 19, 2001. The Complainant also owns domain names including the same distinctive wording BOURSORAMA, such as the domain name <boursorama.com>, registered since March 1, 1998 and <boursoramabanque.com>, registered since May 26, 2005.

The disputed domain name <BOURSORAMA-CLIENTS.INFO> was registered on October 3, 2022.

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 4 million customers. The portal www.boursorama.com is the first national financial and economic information site and first French online banking platform.

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.

Moreover, the addition of the gTLD suffix “.INFO” 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. 104433, BOURSORAMA SA v. 1337 Services LLC <fr-boursorama.com>*, *CAC Case No. 102278, BOURSORAMA v. yvette cristofoli, <boursorama-ecopret.com>*; *CAC Case No. 101844, BOURSORAMA SA likid french, <client-boursorama.net>*.)

The Complainant asserts that the Respondent is not identified in the Whois database 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. Furthermore, the disputed domain name resolves to a parking page. The Complainant contends that Respondent did not make any use of disputed domain name since its registration, and it 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 and distinctive trademark BOURSORAMA and that the Respondent has registered and used the disputed domain name with full knowledge of the Complainant’s trademark.

Besides, the disputed domain name resolves to parking 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 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 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

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

The Complainant has established the fact that it has valid rights for the EU trademark No 1758614 BOURSORAMA registered on October 19, 2001, and that it owns domain names including the same distinctive wording BOURSORAMA. The disputed domain name has been registered on October 3, 2022, i.e. almost 21 years after the trademark registration, and wholly incorporates the Complainant's trademark and is therefore confusingly similar to it.

The generic term "CLIENTS" in the disputed domain name does not distinguish the disputed domain name from the Complainant's 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 addition of the generic top level domain ".INFO" 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. The Respondent has no rights or legitimate interests in respect of the disputed domain name

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. There is no website on the disputed domain name and the disputed domain name, therefore, does not constitute a bona fide offering of goods and services or a legitimate non-commercial fair use. The Respondent has no rights or legitimate interests in the disputed domain name, since there is no indication that the Respondent is commonly known by the term "BOURSORAMA" or its variations or that the Respondent is using the disputed domain name in connection with a bona fide offering of goods or services.

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. The disputed domain name has been registered and is being used in bad faith

Given the distinctiveness of the Complainant's trademark and reputation (as confirmed in several UDRP proceedings in the past) it is evident that the Respondent had the Complainant and its trademark in mind when registering the disputed domain name. This conclusion is supported by the fact that the word CLIENTS has been added to the term BOURSORAMA (as the trademark of the Complainant). Furthermore, the website in connection with the disputed domain name is not used since its registration as redirects to the parking page provided by the registrar only. The incorporation of a famous trademark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use.

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. **boursorama-clients.info**: Transferred

PANELLISTS

Name	Petr Hostaš
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DATE OF PANEL DECISION	2022-11-07
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Publish the Decision
