

Decision for dispute CAC-UDRP-103804

Case number	CAC-UDRP-103804
-------------	------------------------

Time of filing	2021-05-13 11:36:13
----------------	----------------------------

Domain names	boursorama-espace-clients.com, espace-client-boursorama.info
--------------	---

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
--------------	--

Complainant

Organization	BOURSORAMA SA
--------------	----------------------

Complainant representative

Organization	Nameshield (Laurent Becker)
--------------	------------------------------------

Respondent

Name	saad saad
------	------------------

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 registered owner of the EU word trademark "BOURSORAMA", reg. no. 001758614, filed on July 13, 2000, registered on 19 October 2001, with the priority date of 13 July 2000, registered for goods and services in classes 9, 16, 35, 36, 38, 41 and 42 ("Complainant's Trademark").

The disputed domain name <boursorama-espace-clients.com> was registered on 8 May 2021 and <espace-client-boursorama.info> on 9 May 2021.

FACTUAL BACKGROUND

As the Respondent did not file any response to the complaint, the Panel took into account the following facts asserted by the Complainant (and supported by the documentary evidence submitted by the Complainant) and unchallenged by the Respondent:

(a) The Complainant was founded in 1995, and provides services to its clients consisting in particular of online brokerage, financial information and online banking;

(b) The Complainant is the owner of the Complainant's Trademark;

(c) The Complainant owns various domain names including the same distinctive wording BOURSORAMA, of which the domain name <boursorama.com> has been registered since 1 March 1998;

(d) The disputed domain name <boursorama-espace-clients.com> was registered on 8 May 2021 and <espace-client-boursorama.info> on 9 May 2021; and

(e) Both disputed domain names resolve to page with commercial links (pay-per-click).

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

In addition to the above factual assertions, the Complainant also contends the following:

(i) The disputed domain names are confusingly similar to Complainant's Trademark which is included in disputed domain names in its entirety. The addition of French term "Espace Clients" (meaning in English "Customers Area") is not sufficient to escape the finding that the domain names are confusingly similar to the trademark and branded goods BOURSORAMA®.

(ii) The Respondent is not known by the Complainant. The Respondent is not affiliated with the Complainant and is not related in any way to Complainant's business. The Respondent is apparently making neither a bona fide offering of goods or services, nor a legitimate noncommercial or fair use, through the disputed domain names. Therefore, the Respondent has no right or legitimate interest to the disputed domain names; and

(iii) The disputed domain names are confusingly similar to the Complainant's Trademark which is well-known and therefore it is reasonable to infer that the Respondent has registered the disputed domain names with full knowledge of the Complainant's Trademark. Moreover, disputed domain names resolve to a parking page with commercial links. The Complainant contends the Respondent has attempted to attract Internet users for commercial gain to his own websites thanks to the Complainant's trademarks for its own commercial gain. As a result, the disputed domain names have been registered and are being used in bad faith.

RESPONDENT:

The Respondent did not provide any response to the complaint.

RIGHTS

The Panel concluded that the disputed domain names are confusingly similar to the Complainant's Trademark within the meaning of paragraph 4(a)(i) of the Uniform Domain Name Dispute Resolution Policy ("UDRP" or "Policy").

For details, please see "Principal Reasons for the Decision".

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.

For details, please see "Principal Reasons for the Decision".

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.

For details, please see "Principal Reasons for the Decision".

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

Paragraph 4(a) of the Policy requires that the Complainant proves each of the following three elements to obtain an order that the disputed domain name should be transferred or cancelled:

(i) the disputed 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 disputed domain name; and

(iii) the disputed domain name has been registered and is being used in bad faith.

The Panel will proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied in this proceeding.

RIGHTS

The disputed domain names are confusingly similar to the Complainant's Trademark. The Panel fully agrees with the Complainant that an addition of non-distinctive terms such as "espace" and "clients" is not sufficient to diminish such confusing similarity.

For sake of completeness, the Panel asserts that the top-level suffix in the domain name (i.e. the ".com" and ".info") must be disregarded under the identity / confusing similarity test as it is a necessary technical requirement of registration.

Therefore, the Panel concludes that the Complainant satisfied the requirement under paragraph 4(a)(i) of the UDRP.

NO RIGHTS OR LEGITIMATE INTERESTS

The complainant is required to make out a prima facie case that the respondent lacks rights or legitimate interests. Once such prima facie case is made, the respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the respondent fails to do so, the complainant is deemed to have satisfied paragraph 4(a)(ii) of the UDRP (please see, for example, WIPO case no. D2003-0455, Croatia Airlines d.d. v. Modern Empire Internet Ltd.).

As asserted by the Complainant (and unchallenged by the Respondent), the Respondent is not commonly known by the disputed domain names. Neither is the Respondent in any way related to the Complainant. The Respondent failed to provide any information and evidence that it has relevant rights or legitimate interests in respect of the disputed domain names (within the meaning of paragraph 4(a) (ii) of the Policy).

Therefore, the Panel concludes that the Respondent did not establish any right or legitimate interest to the disputed domain names (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

Given the reputation of the Complainant and well-known nature of its trademark the Panel cannot find any conceivable good

faith registration and use of the disputed domain names by the Respondent in a situation where there are no legitimate websites under the disputed domain names and there was no response to the complaint in which the Respondent could have established such good faith use of the disputed domain names (or at least preparations for such good faith use).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **BOURSORAMA-ESPACE-CLIENTS.COM**: Transferred
- 2. **ESPACE-CLIENT-BOURSORAMA.INFO**: Transferred

PANELLISTS

Name	Michal Matějka
------	----------------

DATE OF PANEL DECISION 2021-06-18

Publish the Decision