

Decision for dispute CAC-UDRP-104791

Case number	CAC-UDRP-104791
Time of filing	2022-08-15 10:17:11
Domain names	boursormabanque.com

Case administrator

Organization	Denisa Bilík (CAC) (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	Fundacion Comercio Electronico
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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 trade mark for BOURSORAMA registered under number 001758614 since 19 October 2001.

FACTUAL BACKGROUND

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

The Complainant is an online bank and financial services provider and provides services including online brokerage, financial information and online banking. It was the first French online banking platform and has over 4 million customers. The Complainant also owns a number of domain names, including <boursorama.com>, registered since 1 March 1998 and <boursoramabanque.com>, registered since 26 May 2005.

The disputed name was registered on 9 August 2022 and resolves to a parking page featuring commercial links.

PARTIES CONTENTIONS

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

The Panel agrees with the Complainant's submission that the disputed domain name differs from its registered BOURSORAMA mark only by the omission of the letter "a" and by the addition of the common French language term "banque" meaning "bank". The Panel finds that the omission of the letter "a" and the addition of the word "banque" does not change the overall impression given by the disputed domain name as having a connection with the Complainant and its distinctive BOURSORAMA mark and does not prevent a finding of confusing similarity. As a result, the Panel finds that the disputed domain name is confusingly similar to the Complainant's European trade mark registration for BOURSORAMA for the purposes of paragraph 4(a)(i) of the Policy.

The Complainant has asserted that the Respondent is not identified in the Whois database as the disputed domain name. It has also contended that the Respondent is neither affiliated with nor authorised by the Complainant in any way to make use of its BOURSORAMA mark or to apply for registration of the disputed domain name. The Complainant has also asserted that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant says that it does not carry out any activity for, nor does it have any business with the Respondent. Furthermore, the Complainant has provided evidence that the disputed domain name resolves to a parking page with commercial links. Absent other evidence the Panel finds that this does not demonstrate a bona fide offering of goods or services or legitimate non-commercial or fair use by the Respondent.

On this basis, the Panel finds that the Complainant has made out a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent has failed to respond to or to rebut the Complainant's case and the Panel accordingly finds that the Complaint also succeeds under paragraph 4(a)(ii) of the Policy.

The disputed domain name was registered in August 2022, more than 20 years after the Complainant registered its highly distinctive BOURSORAMA mark and many years after it commenced its financial and banking services business under this mark. The Complainant's mark and online banking/financial services system appears to be very well reputed at least in France and the BOURSORAMA mark also appears to be a coined term. In all of these circumstances it is highly likely that the Respondent, although based in Panama, was well aware of the Complainant's mark and banking business at the time of registration of the disputed domain name.

This case is an example of typosquatting in which the disputed domain name wholly incorporates the Complainant's very distinctive "BOURSORAMA" mark with the omission of one letter "A" which is obviously meant to confuse Internet users. Previous panels have often found typosquatting to amount to use in bad faith as does the Panel in this instance. Under paragraph 4(b)(iv) of the Policy there is evidence of registration and use of a disputed domain name in bad faith where a Respondent has used the disputed domain name to intentionally attract, for commercial gain, Internet users to its website by

creating a likelihood of confusion with the Complainant’s trade marks as to the source, sponsorship, affiliation or endorsement of the website

There is no evidence that the Respondent has used the disputed domain name other than to resolve to a parking page that features commercial links, in particular for loans, investments and opening bank accounts. The Panel finds that this amounts to using the disputed domain name to intentionally attract internet users for commercial gain by creating a likelihood of confusion with the Complainant's BOUSORAMA trade mark as to the source, sponsorship, affiliation or endorsement of the website at the disputed domain name. Under paragraph 4(b)(iv) of the Policy this is evidence of registration and use of a disputed domain name in bad faith and the Panel's view of the Respondent's bad faith is only reinforced by the Respondent's use of a privacy service to mask its identity.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **BOURSORMABANQUE.COM**: Transferred

PANELLISTS

Name	Alistair Payne
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DATE OF PANEL DECISION 2022-09-14

Publish the Decision