

ADMINISTRATIVE PANEL DECISION

Boursorama S.A. v. Ivan Popov
Case No. D2022-1143

1. The Parties

The Complainant is Boursorama S.A., France, represented by Nameshield, France.

The Respondent is Ivan Popov, Russian Federation.

2. The Domain Names and Registrar

The disputed domain names <clients-boursorama-fr.com>, <clients-boursorama-id.com>, <clientsboursorama-id.com>, and <idboursorama-clients.com> (“Disputed Domain Names”) are registered with Registrar of Domain Names REG.RU LLC (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on April 1, 2022 regarding three Disputed Domain Names <clients-boursorama-id.com>, <clientsboursorama-id.com> and <idboursorama-clients.com>. On April 1, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Names. On April 26, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Disputed Domain Names.

The Center sent an email communication to the parties on April 26, 2022 regarding the language of the proceeding, as the Complaint has been submitted in English and the language of the registration agreement for the Disputed Domain Names is Russian. On April 26, 2022, the Complainant requested that the language of the case be English. The Respondent did not comment on the language of the proceeding.

On May 4, 2022, the Complainant sent an email communication to request for addition of the domain name <clients-boursorama-fr.com> to the proceeding case as the registrant of all four Disputed Domain Names <clients-boursorama-fr.com>, <clients-boursorama-id.com>, <clientsboursorama-id.com>, and <idboursorama-clients.com> is the same. Accordingly, the Complainant submitted an amended Complaint and modified annexes on May 5, 2022.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for

Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on May 13, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 2, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 3, 2022.

The Center appointed Pham Nghiem Xuan Bac as the sole panelist in this matter on June 17, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

Founded in 1995, the Complainant is a financial services company headquartered in France with its three core businesses including online brokerage, financial information on the Internet, and online banking. In France, the Complainant is an online banking reference with over 3.3 million customers.

The Complainant registered the domain name <boursorama.com> on March 1, 1998. The website under this Complainant’s domain name is a financial and economic information site and online banking platform.

The Complainant is the owner of several trademark registrations for BOURSORAMA, including but not limited to the European Union Trade Mark No. 001758614, registered on October 19, 2001.

The Disputed Domain Name <clients-boursorama-fr.com> was registered on March 27, 2022, while the remaining Disputed Domain Names were registered on March 30, 2022. As of the date of this Decision, all Disputed Domain Names resolve to inactive websites. However, according to the evidence submitted by the Complainant, the Disputed Domain Name <clients-boursorama-fr.com> used to resolve to a webpage copying the Complainant’s official customer access.

5. Parties’ Contentions

A. Complainant

The Complainant contends that each of the three elements specified in paragraph 4(a) of the Policy are satisfied in the present case, as follows:

(i) The Disputed Domain Names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The Complainant contends that the Disputed Domain Names are confusingly similar to the BOURSORAMA trademark. The addition of the terms “clients” and “id” or “fr” does not prevent the confusing similarity between the Disputed Domain Names and the Complainant’s BOURSORAMA trademark. Moreover, the Complainant contends that the addition of the generic Top-Level Domain (“gTLD”) “.com” is not taken into consideration when examining the confusing similarity between the Complainant’s trademark and the Disputed Domain Names.

(ii) The Respondent has no rights or legitimate interests in respect of the Disputed Domain Names.

The Complainant asserts that the Respondent is not identified in the Whois database as the Disputed Domain Names, but “Ivan Popov”, and therefore, is not commonly known by the Disputed Domain Names. The Complainant argues also that the Respondent is not connected to the Complainant nor is there any

affiliation between the parties.

Furthermore, the Complainant has neither authorized the Respondent to register the Disputed Domain Names nor granted a license to make any use of the Complainant's BOURSORAMA trademark.

Third, The Complainant contends that the Respondent did not make any use of the Disputed Domain Names, and the Respondent has no demonstrable plan to use the Disputed Domain Names, since the Disputed Domain Names redirect to an error page.

In addition, the Complainant submits that the Disputed Domain Name <clients-boursorama-fr.com> resolved to a login page copying the Complainant's official customer access. Such use of the Disputed Domain Name <clients-boursorama-fr.com> cannot be considered as a *bona fide* offering of goods or services or a legitimate noncommercial or fair use.

(iii) The Disputed Domain Names were registered and are being used in bad faith.

The Complainant submits that the Disputed Domain Names include the Complainant's well-known and distinctive BOURSORAMA trademark and therefore, the Respondent registered the Disputed Domain Names with full knowledge of the Complainant's trademark rights.

The Complainant submits that the Disputed Domain Name <clients-boursorama-fr.com> used to resolve to a login page copying the Complainant's official customer access page. Thus, the Complainant asserts that the Respondent registered and intended to use the Disputed Domain Names in bad faith by directing Internet users to a website that mimics Complainant's own website.

Furthermore, since the Disputed Domain Names are now inactive, the Complainant contends that the Respondent has not demonstrated any activity in respect of the Disputed Domain Names, and it is not possible to conceive of any plausible actual or contemplated active use of the Disputed Domain Names by the Respondent that would not be illegitimate.

With the said arguments, the Complainant requests that the Disputed Domain Names be transferred to the Complainant.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

A. Procedural issues

(i) Addition of Domain Name

The Complaint was originally submitted regarding three Disputed Domain Names <clients-boursorama-id.com>, <clientsboursorama-id.com>, and <idboursorama-clients.com>. The Complainant requested the addition of the Disputed Domain Name <clients-boursorama-fr.com> as the registrant of all Disputed Domain Names is the same. Such request was submitted on May 4, 2022, prior to the Notification of Complaint dated May 13, 2022.

The addition of domain name prior to the Notification of Complaint is guided under section 4.12.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)). In the present case, the Panel finds that all Disputed Domain Names involve the Complainant's BOURSORAMA trademark and have been registered by the same registrant, Ivan Popov. Furthermore, the Respondent has not submitted any objection to the Complainant's request for the addition

of domain name. Hence, the Panel finds that the addition of the Disputed Domain Name <clients-boursorama-fr.com> to the present proceeding is fair and equitable to all the parties.

(ii) Language of the proceeding

The Complaint was filed in English on April 1, 2022. On April 26, 2022, the Registrar informed the Center that the language of the Registration Agreement is Russian, and on the same date, the Center invited the Complainant to submit either (i) satisfactory evidence of an agreement between the Complainant and the Respondent to the effect that the proceeding should be in English, or (ii) a translation of the Complaint in Russian, or (iii) a substantiated request for English to be the language of the proceeding; and invited the Respondent to comment on the language of the proceeding.

On April 26, 2022, the Complainant sent the Center an email request for English to be the language of the proceeding. The Respondent did not give any comment on this issue.

According to paragraph 11(a) of the Rules, unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

Similar to previous UDRP decisions, the Panel finds that the spirit of paragraph 11(a) of the Rules is to ensure fairness in the selection of language by giving full consideration to the Parties' level of comfortability with each language, the expenses to be incurred and possibility of delay in the proceeding in the event translations are required, and other relevant factors (see, e.g., *Deutsche Messe AG v. Kim Hyungho*, WIPO Case No. [D2003-0679](#)).

In the present case, the Panel takes into account the circumstances of the proceeding, including, but not limited to:

(i) the fact that the Complainant, a French business entity, does not appear to be able to communicate in Russian, and therefore, if the Complainant was required to have the documents translated into Russian, the proceeding would be unduly delayed, and the Complainant would have to incur substantial expenses for translation;

(ii) the Disputed Domain Names contain English word, i.e., "clients", this suggests that the Respondent has knowledge of the English language and will be able to communicate in English;

(iii) the Respondent did not object for English to be the language of the proceeding and did not submit a response in either English or Russian.

Therefore, in the interest of fairness to both Parties as well as the Panel's obligation under paragraph 10(c) of the Rules, which provides that "the Panel shall ensure that the administrative proceeding takes place with due expedition", the Panel hereby decides, under paragraph 11(a) of the Rules, that the language of the proceeding shall be English and shall render its decision in English.

(iii) The Respondent's Failure to Respond

The Respondent's failure to file a Response does not automatically result in a decision in favor of the Complainant (see, e.g., *Tradewind Media, LLC d/b/a Intopic Media v. Jayson Hahn*, WIPO Case No. [D2010-1413](#); and *M. Corentin Benoit Thiercelin v. CyberDeal, Inc.*, WIPO Case No. [D2010-0941](#)). However, the Panel may draw appropriate inferences from the Respondent's default.

B. Identical or Confusingly Similar

The Complainant is required to establish the two following elements: (1) that it has trademark rights, and, if

so, (2) that the Disputed Domain Names are identical or confusingly similar to its trademark.

First, the Panel finds that the Complainant has evidenced that it has rights in and to the BOURSORAMA trademark, which was registered under European Union Trade Mark No. 001758614 on October 19, 2001, before the registration of the Disputed Domain Names.

Second, the Panel finds that all Disputed Domain Names incorporate entirely the Complainant's BOURSORAMA trademark. The difference between these Disputed Domain Names and the BOURSORAMA trademark is the addition of the terms "clients", "id", "fr", and the hyphen in the Disputed Domain Names. In this regard, the Panel finds that the said difference does not prevent a finding of confusing similarity between the Complainant's trademark and Disputed Domain Names. See section 1.8 of the [WIPO Overview 3.0](#); see also, e.g., *Boursorama S.A. v. Pencreach Jacques*, WIPO Case No. D2021-1198; *Boursorama S.A. v. Pencreach Jacques*, WIPO Case No. [D2021-1112](#); *Supercell Oy v. See Privacy Guardian.org / Mediastack*, WIPO Case No. [D2017-2177](#); *Johnson & Johnson v. Tung Nguyen*, WIPO Case No. [D2017-1635](#).

Finally, the Panel finds, similarly to the other UDPR panels, that the addition of the gTLD ".com" to the Disputed Domain Names does not constitute an element as to avoid confusing similarity for the purposes of the Policy (see, e.g., *Volkswagen AG v. Privacy Protection Services*, WIPO Case No. [D2012-2066](#); *The Coca-Cola Company v. David Jurkiewicz*, WIPO Case No. [DME2010-0008](#); *Telecom Personal, S.A., v. NAMEZERO.COM, Inc.*, WIPO Case No. [D2001-0015](#); *F. Hoffmann La Roche AG v. Macalve e-dominios S.A.*, WIPO Case No. [D2006-0451](#); and *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

On the basis of the foregoing findings, and according to paragraph 4(a)(i) of the Policy, the Panel finds that the Disputed Domain Names are confusingly similar to the Complainant's BOURSORAMA trademark, and the first element of the Policy is established.

C. Rights or Legitimate Interests

Paragraph 4(c) of the Policy lists circumstances, in particular but without limitation, which, if found by the Panel to be proved, demonstrate the Respondent's rights or legitimate interests in the Disputed Domain Names for the purposes of paragraph 4(a)(ii) of the Policy, including:

- "(i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or
- (iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue."

Noting the facts and arguments set out above, 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 Names. The Respondent did not reply to the Complainant's contentions and, therefore, did not refute the Complainant's contentions.

The consensus of previous UDRP panels is that while the overall burden of proof in UDRP proceedings is on the complainant, once a *prima facie* case is made, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating his rights or legitimate interests in the disputed domain name (see e.g., *Document Technologies, Inc. v. International Electronic Communications Inc.*, WIPO Case No. [D2000-0270](#); *Julian Barnes v. Old Barn Studios Limited*, WIPO Case No. [D2001-0121](#)). In this instant case, the Panel finds that the Respondent has failed to meet that burden since no response was submitted with

evidence to the contrary.

Regarding paragraph 4(c)(i) of the Policy, the Panel finds, in light of the Complainant's asserted facts, that no license, permission, or authorization of any kind to use the Complainant's trademark has been granted to the Respondent. There is no evidence available that the Respondent holds any registered or unregistered trademark rights in any jurisdiction. Thus, the Panel finds that the Respondent has no rights in the BOURSORAMA trademark.

In this particular case, it is proven and evidenced by the Complainant that the Dispute Domain Name <clients-boursorama-fr.com> used to resolve to a login page copying the Complainant's official customer access. It may lead Internet users and therewith potential customers of the Complainant to the erroneous assumption that they reached an official website of the Complainant. The Panel contends that such behavior cannot constitute a *bona fide* or legitimate use of the Disputed Domain Name <clients-boursorama-fr.com>.

At the time of this Decision, the Panel finds that the Disputed Domain Names resolve to inactive websites. No evidence is available on the Respondent's preparation to use the Disputed Domain Names in connection with a *bona fide* offering of goods or services. Hence, in absence of this evidence, the Panel is of the view that paragraph 4(c)(i) is not met.

Regarding paragraphs 4(c)(ii) and 4(c)(iii) of the Policy, the Panel finds that there is no evidence that would suggest that the Respondent, as an individual, business, or other organization, has been commonly known by the Disputed Domain Names, or that the Respondent is making a legitimate noncommercial or fair use of the Disputed Domain Name. In fact, as it appears following the Complainant's assertions and evidence with regard to the Respondent's registration of the Disputed Domain Names, the Respondent had full knowledge of the BOURSORAMA trademark and had an intention to gain profit by riding on the goodwill and reputation of the Complainant.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Names, and the second element, paragraph 4(a)(ii) of the Policy is established.

D. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy identifies, in particular but without limitation, four circumstances which, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith, including:

"(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location."

The above four circumstances are not exhaustive and bad faith may be found by the Panel alternatively in other circumstances. The Panel finds that the Complainant has put forth evidence that the Respondent has

registered and used the Disputed Domain Names in bad faith. The Respondent did not reply to the Complainant's contentions and therefore, did not refute the Complainant's contentions.

The Panel finds that the Complainant's BOURSORAMA trademark is inherently distinctive that it is most unlikely the Respondent might have registered the Disputed Domain Names without full knowledge of it. (See *Boursorama S.A. v. WhoisGuard, Inc. / Margaret Robinson*, WIPO Case No. [D2020-0083](#); *Boursorama S.A. v. Rachid Gormoz*, WIPO Case No. [D2020-2299](#); *Boursorama S.A. v. David Lopez*, WIPO Case No. [D2020-2546](#); *Boursorama SA v. Estrade Nicolas*, WIPO Case No. [D2017-1463](#)). Moreover, the Panel also finds that the Respondent intentionally chose to register Disputed Domain Names incorporating the Complainant's BOURSORAMA trademark and the word "clients", which are confusingly similar to the Complainant's subdomain <clients.boursorama.com>. Therefore, the Panel is convinced that the Respondent was fully aware of the Complainant when registering the Disputed Domain Names.

Furthermore, it is proven and evidenced by the Complainant that the Disputed Domain Name <clients-boursorama-fr.com> used to resolve to a login page mimicking the Complainant's official customer access. The use of the said Disputed Domain Name is calculated to attract Internet users to the site in the mistaken belief that they are visiting a site of or associated with the Complainant. When Internet users type in their login details on the website in the erroneous assumption that this is an official website of the Complainant, there is a strong likelihood that the Respondent or any third parties will use this information for illegitimate activity like phishing and identity theft. Such misleading behavior is indicative of bad faith within the meaning of paragraph 4(b)(iv) of the Policy, on the part of the Respondent.

It is further noted that as of the date of this Decision, the Disputed Domain Names are not being used as they all resolve to inactive websites. From the inception of the UDRP, panelists have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding (see section 3.3 of the [WIPO Overview 3.0](#)). Here, the Panel notes, *inter alia*, the reputation of the Complainant's BOURSORAMA trademark and the implausibility of any good faith use of the Disputed Domain Names.

Taking into account all of the above, the Panel finds that the Disputed Domain Names were registered and used by the Respondent in bad faith and the third element under paragraph 4(a)(iii) of the Policy is established.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the Disputed Domain Names, <clients-boursorama-fr.com>, <clients-boursorama-id.com>, <clientsboursorama-id.com>, and <idboursorama-clients.com>, be transferred to the Complainant.

/Pham Nghiem Xuan Bac/

Pham Nghiem Xuan Bac

Sole Panelist

Date: June 28, 2022