

## **ADMINISTRATIVE PANEL DECISION**

Boursorama S.A. v. John Sicot, Jonathan Bramille  
Case No. D2022-0720

### **1. The Parties**

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

The Respondents are John Sicot, France and Jonathan Bramille, France.

### **2. The Domain Names and Registrar**

The disputed domain names <boursorama-europe.com> and <boursorama-placement.com> are registered with Hosting Concepts B.V. d/b/a Registrar.eu. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed in French with the WIPO Arbitration and Mediation Center (the “Center”) on March 2, 2022. On March 2, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On March 3, 2022, the Registrar transmitted by email to the Center its verification, disclosing registrant and contact information for the disputed domain names which differed from the named Respondent and contact information in the Complaint, as well that the Registration Agreement language was English. The Center sent an email communication to the Complainant on March 8, 2022, informing the parties of the Registration Agreement language. On March 8, 2022, the Complainant replied and submitted that the proceedings should proceed in French.

On March 17, 2022, the Center sent an email to the Complainant, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on March 17, 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 March 23, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 12, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 13, 2022.

The Center appointed Alexandre Nappey as the sole panelist in this matter on April 25, 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**

The Complainant is the French company BOURSORAMA SA, a pioneer and leader in its three core businesses: online brokerage, financial information on the Internet and online banking. In France, BOURSORAMA is the top online banking reference with over 1 million customers at the end of 2017.

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

The Complainant is the owner of several trademarks BOURSORAMA, among which European trademark BOURSORAMA N° 001758614, registered on October 19, 2001.

The disputed domain names were registered by the Respondent on February 28, 2022, and are inactive.

#### **5. Parties' Contentions**

##### **A. Complainant**

First, the Complainant submits that the disputed domain names <boursorama-europe.com> and <boursorama-placement.com> are similar to its earlier trademark BOURSORAMA, to the point of creating confusion.

The addition of the terms "europe" and "placement" does not change the overall impression of the designation as being connected to the Complainant's trademark BOURSORAMA.

It does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and domain names associated.

On the contrary, it worsens the likelihood of confusion, as the term "Europe" directly refers to the Complainant's location and the term "placement" to its business activity.

Secondly, the Complainant alleges that the Respondent has no rights or legitimate interests in respect of the disputed domain names.

- the Respondent is not identified in the WHOIS database as the disputed domain name;

- the Respondent has no rights or legitimate interests in respect of the disputed domain names: the Respondent is not known by the Complainant. The Respondent is not affiliated with nor authorized by the Complainant in any way. 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 names.

Thirdly, the Complainant claims that the disputed domain names were registered and are being used in bad faith.

- The disputed domain names include the well-known and distinctive trademark BOURSORAMA.

Besides, the addition of the terms “europe” and “placement” cannot be coincidental, as they directly refer to the Complainant’s address and activity. Consequently, it is reasonable to infer that the Respondent, who is French, has registered the disputed domain names with full knowledge of the Complainant’s trademark.

- the disputed domain names are 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.

## **B. Respondent**

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

## **6. Discussion and Findings**

Notwithstanding the lack of a formal response from the Respondent, it remains up to the Complainant to make out its case in accordance with paragraph 4(a) of the Policy, and to demonstrate that:

- (i) the disputed domain names are 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 names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

However, under paragraph 14(b) of the Rules, where a Party does not comply with any provision of the Rules, the Panel “shall draw such inferences therefrom as it considers appropriate”. Having consideration to the Parties’ contentions, the Policy, Rules, Supplemental Rules, and applicable substantive law, the Panel’s findings on each of the above-mentioned elements are the following:

### **6.1. Language of proceedings**

Since the language of the Registration Agreement of the Disputed Domain Name is English, the default language of the proceeding is English. However, the Complaint has been submitted in French and the Complainant claims that the location of the Respondents and the wording of the disputed domain names should lead to a decision in French language.

The Panel exercises its discretion under paragraph 11 of the Rules to determine that English should be the language of the proceeding despite the statement made by the Complainant, since the Complainant has not been requested to translate its complaint, and it is not unfair to the parties to issue a decision which complies with the language of the Registration Agreement.

### **6.2. Consolidation of multiple Respondents**

The Panel has considered the possible consolidation of the Complaint for the Domain Names. According to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.11.2, “Where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario”.

The Panel notes the following features of the Domain Names and arguments submitted by Complainant in favor of the consolidation of the Domain Names:

- the Domain Names share the same structure, as they include the trademark BOURSORAMA along with non-distinctive elements, namely the geographical term Europe and the dictionary term “placement”;
- the Domain Names were registered on the same date, namely February 28 2022;
- the Domain Names are both registered with the same Registrar;
- the Domain Names used the same privacy service;
- similarities appear also in the Whols information, since both Domain Names are registered with the indication of Gmail addresses as registrant's email and of locations based in France, especially in Paris and Saint-Mandé which is close to the French Capital city.

In view of all the above, the Panel finds that the consolidation of the Domain Names is fair to the Parties, and Respondents have been given an opportunity to object to consolidation through the submission of pleadings to the Complaint, but have chosen not to rebut the consolidation (see [WIPO Overview 3.0](#), sections 4.11.1 and 4.11.2; *Virgin Enterprises Limited v. LINYANXIAO aka lin yanxiao*, WIPO Case No. [D2016-2302](#)). Based on the Complaint, the Panel finds that it is more likely than not that the Domain Names are in common control of one entity; hence, the Panel grants the consolidation for the Domain Names (and will refer to these Respondents as “Respondent”).

### **6.3. Substantive issues**

#### **A. Identical or Confusingly Similar**

The Panel is satisfied that the Complainant owns exclusive trademark rights in BOURSORAMA which predate the registration of the disputed domain names.

The Panel finds that the disputed domain names are confusingly similar to the registered BOURSORAMA trademark owned by the Complainant.

Indeed, the disputed domain names incorporate the entirety of the Complainant's BOURSORAMA trademark with the mere addition of a hyphen and the descriptive words “europe” in the one hand and “placement” in the other hand which does not avoid a finding of confusing similarity as the dominant part of the disputed domain names is the Complainant's trademark BOURSORAMA.

The word “Europe” directly refers to the location of the applicant's head office, and the word “placement” directly refers to one of the applicant's activities.

See *ING Groep N.V. v. Privacy service provided by Withheld for Privacy ehf / SCI Cemelane De saint quentin*, WIPO Case No. [D2022-0244](#); *Kaufman et Broad SA. contre Maie Poirier*, WIPO Case No. [D2020-0836](#).

Therefore, the Panel finds that the disputed domain names are confusingly similar to the Complainant's mark under paragraph 4(a)(i) of the Policy.

#### **B. Rights or Legitimate Interests**

The second requirement the Complainant must prove is that the Respondent has no rights or legitimate interests in the disputed domain names.

Paragraph 4(c) of the Policy provides that the following circumstances can be situations in which the Respondent has rights or legitimate interests in a disputed domain name:

- (i) before any notice to the Respondent of the dispute, the Respondent's use of, or demonstrable preparations to use, the disputed domain names or a name corresponding to the disputed domain names in connection with a *bona fide* offering of goods or services; or
- (ii) the Respondent has been commonly known by the disputed domain names, even if the Respondent has acquired no trademark or service mark rights; or
- (iii) the Respondent is making a legitimate noncommercial or fair use of the disputed domain names, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

Considering the difficulty to demonstrate a negative, UDRP panels consistently find that if the complainant raises a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain names under paragraph 4(a)(ii) of the Policy, the burden of production on this element shifts to the respondent to demonstrate its rights or legitimate interests in the disputed domain names.

See *Boursorama S.A. v. Pencreach Jacques*, WIPO Case No. [D2021-1198](#).

Here, the Complainant has stated that it has not authorized, licensed, or consented to the Respondent any use of its BOURSORAMA trademark.

It results from these circumstances that the Respondent does not own any right in the trademarks BOURSORAMA or is commonly known by the disputed domain names.

In the light of what is stated above, the Panel finds that the Complainant has made an un rebutted *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names.

The Panel finds from the available record that the second element of paragraph 4(a) of the Policy is fulfilled.

### **C. Registered and Used in Bad Faith**

Paragraph 4(b) of the Policy sets out examples of circumstances that will be considered by a panel to be evidence of bad faith registration and use of a domain name.

It provides that:

"For the purposes of Paragraph 4(a)(iii), the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

- (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.”

Since BOURSORAMA is a well-known trademark and there is no evidenced relationship between the Parties, it may be inferred that the Respondent was aware of the Complainant's trademark at the time it registered the disputed domain names.

See, for example, *Boursorama S.A. v. regae agency, regae agency*; WIPO Case No. [D2021-0725](#); *Boursorama S.A. v. Pencreach Jacques*; WIPO Case No. [D2021-1198](#); *Boursorama S.A. v. Pencreach Jacques*, WIPO Case No. [D2021-1195](#).

Thus, the Panel cannot conceive of any use that the Respondent could make of the disputed domain names that would not interfere with the Complainant's trademark rights.

Accordingly, the Panel finds that the Respondent registered the disputed domain names with the Complainant in mind and with the intention of capitalizing on the reputation of the Complainant within the meaning of paragraph 4(b)(iv) of the Policy.

In these circumstances, the Panel holds that the disputed domain names were registered and are being used in bad faith.

The Panel finds that the above constitutes registration and use in bad faith pursuant to the third requirement of paragraph 4(a) of the Policy.

## 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, <boursorama-europe.com> and <boursorama-placement.com> be transferred to the Complainant.

*/Alexandre Nappey/*

**Alexandre Nappey**

Sole Panelist

Date: May 9, 2022