

ADMINISTRATIVE PANEL DECISION

Boursorama S.A. v. Ivan Popov
Case No. D2022-1166

1. The Parties

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

The Respondent is Ivan Popov the Russian Federation.

2. The Domain Name and Registrar

The disputed domain name <clients-boursorama-login.com> is registered with Registrar of Domain Names REG.RU LLC (the “Registrar”).

3. Procedural History

The Complaint in English was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 4, 2022. On April 4, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 4, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details. On April 5, 2022, the Center wrote in English and Russian to the Parties in respect of the language of the administrative proceeding. The Complainant filed a request for English as the language of the Proceedings on April 12, 2022.

The Center verified that the Complaint together with the request for English as the language 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 April 20, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 10, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 16, 2022.

The Center appointed William A. Van Caenegem as the sole panelist in this matter on June 10, 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.

The Complaint was submitted in English although the registration agreement for the disputed domain name is in Russian. The Panel decided that the language of the proceedings should be English for the reasons given below.

4. Factual Background

The Complainant is a French company with millions of clients, engaged in online finance and banking. The Complainant is the registered owner of several BOURSORAMA trademarks including European Union trademark No. 001758614 registered on October 19, 2001. The Complainant also owns a number of domain names, including <boursorama.com>.

The date of registration of the disputed domain name is April 1, 2022.

The disputed domain name does not resolve to any website and has not been used in any way.

5. Parties' Contentions

A. Complainant

The Complainant was founded in 1995 in France and is engaged in three core businesses, online brokerage, financial information on the internet and online banking. The Complainant says that In France, it is the online banking reference with over 3,3 million customers, and states that the portal "www.boursorama.com" is the first national financial and economic information site and the first French online banking platform.

The Complainant says that the disputed domain name is confusingly similar to its BOURSORAMA trademark. The addition of the terms "clients" and "login" does not change the overall impression of connection with the Complainant's trademark BOURSORAMA. The Complainant contends that the additions do not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark, and its associated domain names.

The Complainant asserts that the Respondent is not identified in the Whois database as the disputed domain name, but as "Ivan Popov". The Complainant points out that panels have held that a Respondent was not commonly known by a disputed domain name if the Whois information did not reflect that disputed domain name.

The Complainant points out that the Respondent is not known by the name BOURSORAMA and is neither licensed by, affiliated with nor authorized by the Complainant in any way. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The fact that the disputed domain name remains inactive establishes that the Respondent has no demonstrable plan to use it, which shows it has no legitimate interest in the disputed domain name and its only interest is to create a likelihood of confusion with the Complainant, or so the latter maintains.

The Complainant contends that as the disputed domain name includes what it refers to as the well-known and distinctive trademark BOURSORAMA, it is reasonable to infer that the Respondent has registered it with full knowledge of the Complainant's rights in the said trademark. Further, the disputed domain name has remained inactive and the Complainant says that it is not possible to conceive of any plausible actual or contemplated use of the disputed domain name by the Respondent that would not be illegitimate, such as by constituting passing off, an infringement of consumer protection legislation, or an infringement of trademark law.

The Complainant therefore submits that the disputed domain name was registered and used in bad faith.

B. Respondent

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

6. Discussion and Findings

Language of the proceedings

The language of the registration agreement is Russian but the Complainant seeks to have the proceedings conducted in English for the following reasons: English is the language most widely used in international relations and is one of the working languages of the Center; the terms "clients" and "login" are English words; the Complainant would have had to retain specialized translation services at a cost very likely to be higher than the overall cost of these proceedings if the proceedings were to be in Russian, imposing a significant cost burden on the Complainant in view of the generally low cost of proceedings under the UDRP; and although the Complaint is in English, the Center informed the Respondent in Russian and afforded the Respondent the opportunity to respond in Russian in every manner.

It should further be noted that despite attempts to notify the Respondent in Russian (and English) by various means, the Respondent did not reply or communicate with the Center or the Complainant in any way. The Respondent has thus not availed itself of the opportunity to respond to the contentions in the Complaint, which it could have done in Russian in the first instance. In any case, the composition of the disputed domain name suggests that the Respondent knows and understands English sufficiently well. In the circumstances it would impose an unreasonable burden on the Complainant to order it to conduct all steps in the proceedings in Russian.

Therefore the Panel holds that the proceedings should be conducted in English.

A. Identical or Confusingly Similar

The disputed domain name is not identical to the distinctive BOURSORAMA registered trademark of the Complainant, but that mark is immediately and clearly recognizable within the domain name. The addition of the terms "clients" and "login" does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark.

Therefore the Panel holds that the disputed domain name is confusingly similar to the BOURSORAMA trademark of the Complainant.

B. Rights or Legitimate Interests

The Respondent has not replied to any of the contentions of the Complainant. The Respondent is not known by the disputed domain name or as BOURSORAMA and there is nothing to indicate that it does or has the right to conduct any legitimate business under that mark or business name. The Respondent is not authorized to use the Complainant's trademark in any manner or to incorporate it in any domain name that it registers. The disputed domain name remains inactive which tends to confirm that the Respondent has no legitimate use for it, and in any case, it is difficult to imagine any legitimate use it could possibly have for the disputed domain name. The latter will invariably give the impression of a legitimate connection with the Complainant, owner of the BOURSORAMA trademark, which does not in fact exist.

Therefore the Panel holds that the Respondent has no rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

The disputed domain name incorporates a highly distinctive trademark that had been used in business, and particularly online, for a considerable amount of time before the registration of the disputed domain name by the Respondent. The Complainant has a very substantial client base that knows it by the mark BOURSORAMA. The deliberate inclusion of the English words “clients” and “login” tends to suggest that the Respondent was perfectly aware of the rights of the Complainant in the BOURSORAMA trademark and the online nature of the finance business it conducts under that mark. The disputed domain name has not been put to any use, and therefore there is nothing on the facts that could suggest use in good faith of the disputed domain name. In fact, given its nature and the very strong connotation of it resolving to a legitimate portal of the Complainant, it is clearly devised and registered with some illegitimate purpose in mind. It is almost impossible to imagine that it could be put to a good faith use by anybody other than the Complainant. The Respondent has in any event not sought to make out a case of any kind in relation to good faith use.

Therefore the Panel holds that the disputed domain name was registered and used in bad faith.

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 name <clients-boursorama-login.com> be transferred to the Complainant.

/William A. Van Caenegem/

William A. Van Caenegem

Sole Panelist

Date: June 10, 2022