

ADMINISTRATIVE PANEL DECISION

Boursorama S.A. v. Ibraci Links, Ibraci Links SAS

Case No. D2022-4646

1. The Parties

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

Respondent is Ibraci Links, Ibraci Links SAS, Mali.

2. The Domain Name and Registrar

The disputed domain name <espacebourso.com> (the “Domain Name”) is registered with Atak Domain Hosting Internet ve Bilgi Teknolojileri Limited Sirketi d/b/a Atak Teknoloji (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 5, 2022. On December 5, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On December 8, 2022, the Registrar transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 Respondent of the Complaint, and the proceedings commenced on December 9, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 29, 2022. Respondent did not submit any formal response, however sent an informal communication email on December 14, 2022. Accordingly, the Center notified the Commencement of Panel Appointment Process on January 3, 2023.

The Center appointed Christopher S. Gibson as the sole panelist in this matter on January 6, 2023. 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, Complainant has grown in Europe with the emergence of e-commerce and the continuous expansion of the range of financial products offered online. Complainant has three core businesses: online brokerage, financial information on the Internet, and online banking. In France, Complainant is an online banking source with over 4.3 million customers. According to the Complaint, Complainant's portal at "www.boursorama.com" is the first national financial and economic information website, as well as the first French online banking platform.

Complainant is the owner of the French trademark BOURSO, registration no. 3009973, registered on February 22, 2000. Complainant also owns a number of domain names that incorporate the mark BOURSO, including the domain name <boursocom>, which was registered on January 11, 2000.

The Domain Name was registered on December 2, 2022. It resolves to a page without any substantial content, except for the message: "This Account has been suspended".

5. Parties' Contentions

A. Complainant

(i) Identical or confusingly similar

Complainant states that the Domain Name <espaceboursocom> is confusingly similar to its distinctive trademark BOURSO. The Domain Name includes the mark in its entirety. Further, the addition of the term "espace" (meaning "area" in French) to the BOURSO mark is not sufficient to escape a finding that the Domain Name is confusingly similar to Complainant's trademark. Complainant contends that it is well-established that a domain name that wholly incorporates a complainant's registered trademark may be sufficient to establish confusing similarity for purposes of the UDRP.

Moreover, Complainant contends that the addition of the generic Top-Level-Domain ".com" does not change the overall impression of the designation as being connected to Complainant's trademark. It does not prevent the likelihood of confusion between the Domain Name, on the one hand, and Complainant, its trademark and its domain names, on the other hand.

Finally, Complainant states that prior UDRP panels have confirmed Complainant's rights in the following cases: *Boursorama S.A. v. Escriive Elie Togbe*, WIPO Case No. [D2021-1936](#) (<boursoufinance.com>), and *BOURSORAMA v. David Tidast*, WIPO Case No. [D2020-2547](#) (<boursoclients.com>).

Thus, Complainant concludes the Domain Name is confusingly similar to Complainant's trademark.

(ii) Rights or legitimate interests

Complainant contends that Respondent has no rights or legitimate interests in respect of the Domain Name. Complainant asserts that Respondent is not identified in the Whois database with a name that is the same as the Domain Name, but instead is listed as "Ibraci Links Sas". Complainant states past UDRP panels have held that a respondent was not commonly known by a disputed domain name if the Whois information was not similar to the disputed domain name.

Complainant further states that it does not know Respondent. Complainant contends that Respondent is not affiliated with or authorized by Complainant in any way. Complainant does not carry out any activity for, nor has any business with Respondent. No license or authorization has been granted to Respondent to make any use of Complainant's BOURSO mark, or to apply for registration of the Domain Name. Complainant also emphasizes that the Domain Name is not actively used, as it resolves to a webpage stating: "This Account has been suspended". Complainant contends that Respondent has not made any use of the

Domain Name since its registration, and claims that Respondent has no demonstrable plan to use the Domain Name. Complainant contends that Respondent demonstrates a lack of legitimate interests in respect of the Domain Name, and instead registered it to create a likelihood of confusion with Complainant and its trademark.

Accordingly, Complainant concludes that Respondent has no rights or legitimate interests on the Domain Name.

(iii) Registered and used in bad faith

Complainant states that the Domain Name is confusingly similar to Complainant's trademark BOURSO, and Complainant's trademark was already known at the time when the Domain Name was registered. Complainant does business in more than 80 countries worldwide and is listed on the Euronext Paris stock exchange. Complainant asserts that the addition of the term "espace", meaning "area" in French, to the trademark BOURSO cannot be coincidental, as it refers to Complainant's online customer area. Consequently, Complainant contends that Respondent knew or should have known about Complainant and its rights in the BOURSO mark at the time of registration of the Domain Name.

Furthermore, the Domain Name is not actively used, as it resolves to a page stating: "This Account has been suspended". Complainant contends that Respondent has not demonstrated any activity in respect of the Domain Name, and it is not possible to conceive of any plausible actual or contemplated active use of the Domain Name by Respondent that would be legitimate. Complainant asserts that prior UDRP panels have held the incorporation of a famous mark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use.

Thus, Complainant contends that Respondent has registered the Domain Name and is using it in bad faith.

B. Respondent

Respondent did not submit any formal response; however, Respondent sent an informal email to the Center on December 14, 2022, stating as follows: "Hi, We've suspended the account related to this domain name. Regards".

6. Discussion and Findings

In order to succeed on its Complaint, Complainant must demonstrate that the three elements set forth in paragraph 4(a) of the Policy have been satisfied. Those elements are as follows:

- (i) the Domain Name registered by Respondent is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) Respondent has registered and is using the Domain Name in bad faith.

A. Identical or Confusingly Similar

The Panel determines that Complainant has demonstrated well-established rights in its distinctive BOURSO trademark, through both registration and use in its commercial operations.

The Panel further finds that the Domain Name is confusingly similar to Complainant's BOURSO trademark. The Domain Name incorporates the BOURSO mark in its entirety, with the difference being the placement of the term "espace" before Complainant's mark. This difference does not avoid confusing similarity. See WIPO Overview of Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section

1.7 (“This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.”).

In conclusion, the Panel finds that the Domain Name is confusingly similar to a trademark in which Complainant has rights in accordance with paragraph 4(a)(i) of the Policy. Accordingly, Complainant has satisfied the first element of the Policy.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(a)(ii) of the Policy, Complainant must prove that Respondent has no rights or legitimate interests in respect of the Domain Name. A complainant is normally 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 production of demonstrating rights or legitimate interests in the domain name.

Here, the Panel finds that Complainant has made out a *prima facie* case. Complainant has indicated that it has well-established rights in its BOURSO trademark; that Respondent has no legitimate interest in the confusingly similar Domain Name because it fully incorporates Complainant’s BOURSO trademark; that Respondent is not known by the Domain Name; that Complainant has not authorized, licensed, or otherwise permitted Respondent to use the BOURSO trademark, or to register the Domain Name; that Respondent has no legitimate interest when the Domain Name falsely suggests affiliation with the trademark owner; and that Respondent has not used the Domain Name in any manner that would give rise to any right or legitimate interest in respect of the Domain Name.

In response to these allegations, Respondent has failed to submit a Response, and instead indicated in an informal email that: “We’ve suspended the account related to this domain name.”

Accordingly, for all of the above reasons, the Panel finds that Complainant has established the second element of the Policy in accordance with paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

The third element of paragraph 4(a) of the Policy requires that Complainant demonstrate that Respondent registered and is using the Domain Names in bad faith. [WIPO Overview 3.0](#), section 3.1, states “bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant’s mark”.

For the reasons discussed under this and the preceding heading, the Panel determines that Respondent’s conduct in this case constitutes bad faith registration and use of the Domain Name within the meaning of paragraph 4(a)(iii) of the Policy. On the balance of the probabilities, the Panel determines that Respondent was aware of Complainant and its BOURSO trademark, and targeted that mark when registering the Domain Name. See *Asurion, LLC v. Cindy Willis*, WIPO Case No. [D2018-2643](#) (“The Panel first finds it more likely than not the Respondent had Complainant’s inherently distinctive – and well-known – ASURION mark in mind when registering Domain Name.”).

Further, Respondent has not used the Domain Name, which was recently registered in December 2022, except for a notice on the site stating “This Account has been suspended”. In the face of Complainant’s Complaint, Respondent has not attempted to justify its registration of the Domain Name, but merely noted that it had been suspended. Moreover, the Whois details for Respondent do not give any real indication of the identity of Respondent, or why Respondent might have registered the Domain Name. Under these circumstances, and given the descriptive nature of the word “espace” used in connection with Complainant’s BOURSO mark, thereby suggesting affiliation with, or sponsorship by, Complainant, the Panel cannot conceive of any plausible use of the Domain Name by Respondent that would be legitimate.

Section 3.3 of the [WIPO Overview 3.0](#) provides: “From the inception of the UDRP, panelists have found that the non-use of a domain name (including a blank or ‘coming soon’ page) would not prevent a finding of bad faith under the doctrine of passive holding.” Section 3.3 of the [WIPO Overview 3.0](#) further states:

“While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put.”

As discussed above, Complainant’s BOURSO mark is well established. Considering all the circumstances of this case, the Panel concludes that the current inactive use of the Domain Name by Respondent is in bad faith.

In conclusion, the Panel determines that, for all of the above reasons, the Domain Name was registered and is being used in bad faith. Accordingly, Complainant has satisfied the third element 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 Domain Name, <espacebourso.com>, be transferred to Complainant.

/Christopher S. Gibson/

Christopher S. Gibson

Sole Panelist

Date: January 30, 2023