

ADMINISTRATIVE PANEL DECISION

Boursorama v. ,g,ut uktuk
Case No. D2023-3929

1. The Parties

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

The Respondent is ,g,ut uktuk, France.

2. The Domain Names and Registrar

The disputed domain names <boursorama-banque-connexion.com> and <bouurrsorama.com> are registered with Amazon Registrar, Inc.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 20, 2023. On September 20, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On September 20, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Identity Protection Service) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 21, 2023, 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 September 22, 2023.

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 September 26, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 16, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 17, 2023.

The Center appointed Vincent Denoyelle as the sole panelist in this matter on October 23, 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

Given that no Response was filed, the following facts are based on the submissions in the Complaint and the Annexes to the Complaint.

The Complainant is a financial services company headquartered in France with online activities including banking and brokerage. The Complainant was established in 1989.

The Complainant is the owner of several trade marks for BOURSORAMA including in France where the Respondent appears to be based. The Complainant's trade marks include the following:

- European Union trade mark BOURSORAMA, registration no. 001758614, registered on October 19, 2001.

The Complainant is also the owner of several domain names reflecting its trade mark including <boursorama.com> registered in 1998.

Both disputed domain names were registered on September 19, 2023.

The disputed domain name <boursorama-banque-connexion.com> used to resolve to a login page copying the Complainant's official customer access at "www.clients.boursorama.com/connexion/" and the disputed domain name <bouurrsorama.com> used to redirect to the website "www.boursorama-banque-connexion.com/index.php".

At the time of the Decision both disputed domain names trigger an error message.

There is no information known on the Respondent apart from the details as they appear on the respective Whois records.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

Notably, the Complainant contends that the disputed domain names are confusingly similar to the BOURSORAMA trade mark in which the Complainant has rights as the disputed domain name <boursorama-banque-connexion.com> incorporates the entire BOURSORAMA trade mark with the mere addition of the generic terms: "banque" and "connexion" separated by hyphens and as for the disputed domain name <bouurrsorama.com>, the Complainant argues that it is an obvious misspelling of the Complainant's trade mark.

The Complainant asserts that the Respondent is not identified in the Whois database by either of the disputed domain names and that the Respondent is thus not deemed to be commonly known by either of the disputed domain names. The Complainant also states that the Respondent is not known to the Complainant. The Complainant contends that the Respondent is not affiliated with nor authorised by the Complainant in any way. Furthermore, the Complainant contends that the disputed domain names are

used to mislead Internet users into believing that they were accessing the Complainant's website and this type of use would not constitute a legitimate use of the disputed domain names. The Complainant concludes that the Respondent has no rights or legitimate interests in either of the disputed domain names.

The Complainant contends that the Respondent has registered and used the disputed domain names with full knowledge of the Complainant's trade marks and the Complainant refers to prior UDRP panels findings that the Complainant's trade mark BOURSORAMA is well-known. The Complainant then points to the deceptive use of the disputed domain names to conclude that they were registered and used primarily with the intention of attempting to attract, for commercial gain, Internet users to the Respondent's website or other online locations, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of such website or location, or of a product or service on such website or location.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trade mark and each of the disputed domain names. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the BOURSORAMA trade mark is reproduced within the disputed domain name <boursorama-banque-connexion.com> and while the addition of other terms here, "banque" and "connexion", may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name <boursorama-banque-connexion.com> and the BOURSORAMA trade mark for the purposes of the Policy. As for the disputed domain name <bouurrsorama.com>, the Panel finds that the BOURSORAMA trade mark is instantly recognizable in spite of the doubling of the letter "u" and the first "r" of the BOURSORAMA trade mark.

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names. The Respondent has not rebutted the Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise.

Here there is no indication that the Respondent is known by any of the disputed domain names as the only information about the Respondent's name is in the Whois database records as ".g,ut uktuk". In addition, the absence of use or the past or present malevolent use or underlying use of the disputed domain names and associated websites cannot qualify as either use of the disputed domain names (or demonstrable plans for such use) with a *bona fide* offering or a legitimate noncommercial fair use.

Panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel finds that the Respondent, at the time of registration of the disputed domain names, must have been aware of the Complainant's trade mark BOURSORAMA given (i) the renown of the BOURSORAMA trade mark, as acknowledged by several previous UDRP panels, (ii) the fact that the Respondent appears to be based in France where the Complainant is headquartered and where its renown is probably higher than anywhere else, and (iii) the fact that the disputed domain names were registered relatively recently and many years after the registration of the trade mark BOURSORAMA.

As for use of the disputed domain names, both of them have been used to mislead Internet users into believing they were accessing the Complainant's website, very likely in order to obtain personal data of unsuspecting Internet users to ultimately seek to defraud them and thus obtain some kind of undue commercial gain.

On this basis, the Panel finds that, as per paragraph 4(b)(iv) of the Policy, by using the disputed domain names, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's websites or other online locations, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's websites or locations or of a product or service on the Respondent's websites or locations.

Panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain names constitutes bad faith under the Policy.

Based on the available record, the Panel finds the third element of the Policy has been 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, <boursorama-banque-connexion.com> and <bouurrsorama.com> be transferred to the Complainant.

/Vincent Denoyelle/

Vincent Denoyelle

Sole Panelist

Date: November 6, 2023