

ADMINISTRATIVE PANEL DECISION

Boursorama S.A. v. moic chems, michel
Case No. D2023-1266

1. The Parties

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

The Respondent is moic chems, michel, United States of America.

2. The Domain Name and Registrar

The disputed domain name <web-clients-connexion-bourso.com> is registered with Google LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on March 23, 2023. On March 23, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 23, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Contact Privacy Inc. Customer 7151571251) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 30, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. On the same date, the Center sent an email in English and French to the Parties regarding the language of the proceeding. The Complainant filed an amended Complaint translated into English on March 31, 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 April 5, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 25, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 2, 2023.

The Center appointed Anna Carabelli as the sole panelist in this matter on May 11, 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

The Complainant is a French financial services company whose core businesses are online brokerage, financial information on the Internet and online banking. With over 4 million customers, the Complainant is an online banking reference in France. 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 the French trademark BOURSO, registration No. 3009973, filed and registered on February 22, 2000. The Complainant also owns the domain name <boursorama.com>, which was registered on January 11, 2000.

The disputed domain name was registered on March 22, 2023. As per the evidence submitted with the Complaint, the disputed domain name resolves to a login page copying the Complainant’s official customer access page “https://clients.boursorama.com/connexion”.

5. Parties’ Contentions

A. Complainant

The Complainant submits and contends that:

- (a) It owns valid and enforceable trademark rights in the BOURSO mark, which is well known and distinctive (as recognized in *Boursorama S.A v. Ibraci Links, Ibraci Links SAS*, WIPO Case No. [D2022-4646](#)), and predates the registration of the disputed domain name.
- (b) The disputed domain name is confusingly similar to the Complainant’s registered trademark. The addition of the terms “web”, “clients” (meaning, customers in French language) and “connexion” (meaning, “login”) is not sufficient to prevent a finding of confusing similarity. On the contrary, it further facilitates confusion between the Complainant and the Respondent.
- (c) The Respondent has no rights nor any legitimate interests in respect of the disputed domain name since: (i) the Complainant has no relationship with the Respondent, (ii) the Respondent is not commonly known by the disputed domain name, and (iii) the Respondent’s use of the disputed domain name is neither a *bona fide* offering of goods or services nor a legitimate noncommercial or fair use. The disputed domain name resolves to a login page copying the Complainant’s official customer access “https://clients.boursorama.com/connexion”. Thus, it can mislead consumers into believing that they are accessing the Complainant’s website, and could also be used to collect personal information of the Complainant’s customers.
- (d) The Respondent has registered and is using the disputed domain name in bad faith to disrupt the Complainant’s business by using to impersonate the Complainant for commercial gain. Given the distinctiveness and the reputation of the Complainant’s trademark BOURSO, it is reasonable to infer that the Respondent was well aware of the Complainant’s trademark when registering the disputed domain name. The fact that the disputed domain name resolves to login page copying the Complainant’s official customer access page indicates that the Respondent registered and is using the disputed domain name to intentionally create a false affiliation, and likelihood of confusion with the Complainant and its BOURSO mark, in order to divert Internet users for commercial gain.

Based on the above the Complainant requests the disputed domain name be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the panel to decide the complaint based on the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Under paragraph 4(a) of the Policy, the complainant must prove each of the following:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

Paragraph 4(b) of the Policy sets out four illustrative circumstances, which for the purposes of paragraph 4(a)(iii) of the Policy, shall be evidence of registration and use of a domain name in bad faith.

Paragraph 4(c) of the Policy sets out three illustrative circumstances any one of which, if proved by the respondent, shall be evidence of the respondent's rights to or legitimate interests in a disputed domain name for the purpose of paragraph 4(a)(ii) of the Policy above.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has established rights over the trademark BOURSO based on the evidence submitted in the Complaint.

The disputed domain name consists of the Complainant's trademark BOURSO with addition of the terms "web", "clients" and "connexion", followed by the generic Top-Level Domain ("gTLD") ".com".

The addition of the gTLD such as ".com" is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test (see section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition - "[WIPO Overview 3.0](#)"),

Therefore, the relevant comparison to be made is with the second-level portion of the disputed domain name, *i.e.*, "web-clients-connexion-bourso". As highlighted in section 1.7 of the [WIPO Overview 3.0](#), the threshold test for confusing similarity 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.

The disputed domain name entirely incorporates the Complainant's mark BOURSO and this is a sufficient element to establish confusing similarity, as held by previous UDRP panels (*e.g.*, *Banca Mediolanum S.p.A. v. Domains By Proxy, LLC / Marzia Chiarello*, WIPO Case No. [D2020-1955](#); *Virgin Enterprises Limited v. Domains By Proxy LLC, Domainsbyproxy.com / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-1923](#); *Patagonia, Inc. v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2019-1409](#)).

As recorded in section 1.8 of the [WIPO Overview 3.0](#), where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity under the first element.

Accordingly, the Panel finds that disputed domain name is confusingly similar to a mark in which the Complainant has rights. Therefore, the Complainant has established paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(c) of the Policy, a respondent may demonstrate its rights or legitimate interests in a domain name by showing any of the following circumstances, in particular but without limitation:

- (i) before any notice to it of the dispute, its use of, or demonstrable preparation to use the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods and services;
- (ii) it has been commonly known by the domain name, even if it has acquired no trademark or service mark rights;
- (iii) it is 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.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, based on the following: (a) the Complainant holds prior rights in the registered BOURSO mark, which is distinctive and well known, (b) the Respondent has not been authorized to use the Complainant's trademark in any way, and is not commonly known by the disputed domain name (c) the disputed domain name resolves to a login page copying the Complainant's official customer access page "https://clients.boursorama.com/connexion". Given the confusing similarity of the disputed domain name to the Complainant's trademark and the absence of any relationship between the Respondent and the Complainant, such a use of the disputed domain name is neither a *bona fide* use nor a legitimate noncommercial or fair use of the disputed domain name.

According to section 2.1 of the [WIPO Overview 3.0](#), 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 domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

Here the Panel finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names. By not submitting a response, the Respondent has failed to invoke any circumstance, which could have demonstrated any rights or legitimate interests in the disputed domain names under paragraph 4(c) of the Policy. The Panel notes that the disputed domain name is confusingly similar to the Complainant's BOURSO trademark and carries a high risk of implied affiliation with the Complainant. Moreover, the disputed domain name resolves to a login page, which mimics the Complainant's official login page and can mislead the consumers into believing that they are accessing the Complainant's website. The above cannot constitute fair use.

Therefore, the Panel finds that the Complainant has established paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

According to paragraph 4(a)(iii) of the Policy, the Complainant must establish that the disputed domain name has been registered and used in bad faith.

The BOURSO trademark is distinctive and well known (see also *Boursorama SA v. Ibraci Links, Ibraci Links SAS*, WIPO Case No. [D2022-4646](#)) and the date of its first registration significantly precedes the date of

registration of the disputed domain name. Moreover, given the use of the disputed domain name, the Panel concludes that the Respondent knew that the disputed domain name would be confusingly similar to the Complainant's trademark. The fact that the disputed domain name resolves to a login page, which is a copycat version of the Complainant's official customer access page, indicates that the Respondent targeted the Complainant when registering the disputed domain name.

The above conduct constitutes opportunistic bad faith registration (see section 3.2.1 of the [WIPO Overview 3.0](#)), as well as bad faith use of the disputed domain name under the Policy. Internet users who encounter the web page to which the disputed domain name resolve may believe that they are accessing the Complainant's website (see section 3.1.4 of the [WIPO Overview 3.0](#)).

In light of the above, the Panel finds that the disputed domain name was registered and has been used in bad faith by the Respondent, with a deliberate intent to create an impression of an association with the Complainant, and to attract Internet users for commercial gain, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's websites or of the services offered on the Respondent's website.

On this basis, the Panel finds that the Complainant has satisfied the third and last element of the Policy, paragraph 4a(iii).

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, <web-clients-connexion-bourso.com> be transferred to the Complainant.

/Anna Carabelli/

Anna Carabelli

Sole Panelist

Date: May 23, 2023