

ADMINISTRATIVE PANEL DECISION

Boursorama S.A. v. Whois Privacy Protection Foundation / Lou Lejoly
Case No. D2022-1063

1. The Parties

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

The Respondent is Whois Privacy Protection Foundation, Netherlands / Lou Lejoly, France.

2. The Domain Name and Registrar

The disputed domain name <boursoramaclient-connexion.com> is registered with Hosting Concepts B.V. d/b/a Registrar.eu. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on March 28, 2022. On March 29, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 30, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on March 30, 2022, 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 30, 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 31, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 20, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 21, 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 S.A., a pioneer and leader in its three core businesses: online brokerage, financial information on the Internet and online banking.

In France, BOURSORAMA is the online banking reference with over 3 million customers.

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 name was registered on March 25th, 2022 and it is currently inactive.

5. Parties' Contentions

A. Complainant

First, the Complainant submits that the disputed domain name is similar to its prior trademark BOURSORAMA, to the point of creating confusion.

The addition of the terms "client" and "connexion" 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 with it.

On the contrary, it strengthens the likelihood of confusion, as it directly refers to the Complainant's official customer access at "<https://clients.boursorama.com/connexion>".

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

- 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 name: 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 name.

Thirdly, the Complainant claims that the disputed domain name was registered and is being used in bad faith.

- the disputed domain name includes the well-known and distinctive trademark BOURSORAMA.

Besides, the addition of the terms "client" and "connexion" cannot be coincidental, as it directly refers to the Complainant's official customer access at "<https://clients.boursorama.com/connexion>".

Consequently, it is reasonable to infer that the Respondent, who is (according to the information obtained from the Registrar) French, has registered the domain name with full knowledge of the Complainant's trademark.

- the disputed domain name is inactive. The Complainant contends that the Respondent has not demonstrated any activity in respect of the disputed domain name, and it is not possible to conceive of any plausible actual or contemplated active use of the disputed domain name 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, in the absence of exceptional circumstances, 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:

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 name.

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

Indeed, the disputed domain name incorporates the entirety of the Complainant's BOURSORAMA trademark with the mere addition of a hyphen and the descriptive words "client" and "connexion" which does not avoid a finding of confusing similarity as the dominant part of the disputed domain name is identical with the Complainant's trademark BOURSORAMA.

The disputed domain name will be perceived by the public as a reference to the online tool through which a client can access his/her area relating the Complainant's official website, with all his/her personal and financial details.

See *Boursorama S.A. v. Rachid Gormoz*, WIPO Case No. [D2020-2299](#) and *Boursorama S.A. v. Contact Privacy Inc. Customer 12411649866 / Celdrick Yedikissa*, WIPO Case No. [D2021-4077](#).

Therefore, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark 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 name.

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 name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or

(ii) the Respondent has been commonly known by the disputed domain name, even if the Respondent has acquired no trademark or service mark rights; or

(iii) the Respondent is making a legitimate non-commercial or fair use of the disputed domain name, 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 name 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 name.

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 name.

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 name.

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 name.

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

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

Accordingly, the Panel finds that the Respondent registered the disputed domain name 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 name was registered and is 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 name, <boursoramaclient-connexion.com> be transferred to the Complainant.

/Alexandre Nappey/

Alexandre Nappey

Sole Panelist

Date: May 9, 2022