

ADMINISTRATIVE PANEL DECISION

Boursorama S.A. v. David Vaughn
Case No. D2022-2420

1. The Parties

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

The Respondent is David Vaughn, United States of America (“U.S.”).

2. The Domain Names and Registrars

The disputed domain names <boursoramabanque-fr.com>, <boursoramabanque-fr.net>, <fr-boursoarmabanque.com> and <fr-boursoramabanque.com> are registered with Eranet International Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 4, 2022. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On July 6, 2022, 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 and contact information in the Complaint.

The Center sent an email communication to the Complainant on July 7, 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 also on July 7, 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 July 11, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 31, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August, 2022.

The Center appointed Beatrice Onica Jarka as the sole panelist in this matter on August 3, 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

Founded in 1995, the Complainant has been growing in Europe with the emergence of e-commerce and the continuous expansion of the range of financial products online.

In France, the Complainant is the online banking reference with over 3,7 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, such as the European trademark n° 001758614, registered since October 19, 2001.

The Complainant also owns a number of domain names, including the same distinctive wording BOURSORAMA, such as the domain name <boursorama.com> (registered since March 1, 1998).

The disputed domain names were registered on June 29, 2022. According to the evidence submitted with the Complaint, the disputed domain names have been, since their registration, inactive.

5. Parties' Contentions

A. Complainant

By the Complaint, the Complainant contends that:

- the disputed domain names are confusingly similar to its trademark BOURSORAMA and its domain names associated to the said trademark, as the addition of the terms “banque” and “fr” in the disputed domain names, or the reversal of the letters “a” and “r” for the domain name <fr-boursoarmabanque.com>, do not change the overall impression of the designation as being connected to the Complainant's trademark BOURSORAMA. Moreover, the Complainant the addition of the generic top-level domain (“gTLD”) suffix “.com” does not change the overall impression of the designation as being connected to the trademark BOURSORAMA of the Complainant. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and its domain names associated.
- the Respondent is not identified in the Whois database, or otherwise with the term “boursorama”.
- the Respondent is neither known by the Complainant or affiliated/ authorized by the Complainant in any way.
- the Respondent has no rights or legitimate interests in respect of the disputed domain names as the Complainant does not carry out any activity for, nor has any business with the Respondent. 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. The disputed domain names are inactive.
- Moreover, the Respondent did not make any use of disputed domain names since its registration, and it confirms that the Respondent has no demonstrable plan to use the disputed domain names.

- the disputed domain names include the well-known and distinctive trademark BOURSORAMA and, when the Complainant was informed of the registration of the disputed domain names, the domain name <boursoramabanque-fr.net> resolved to a copy of the Complainant's official customer access. Consequently, it is reasonable to infer that the Respondent has registered the domain names with full knowledge of the Complainant's trademark.
- furthermore, the disputed domain names are inactive and the Respondent has not demonstrated any legitimate activity in respect of the disputed domain names, which makes not possible to conceive of any plausible actual or contemplated active use of the disputed domain names by the Respondent that would not be illegitimate.

B. Respondent

Although properly summoned, the Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

First, under this Policy element this Panel finds that the Complainant has established trademark rights in the trademark BOURSORAMA.

Second, under this Policy element, this Panel notes that it has been decided by previous UDRP panels that incorporating a trademark in its entirety can be sufficient to establish that a domain name is identical or confusingly similar to a registered trademark, according to WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), paragraph 1.7.

The following disputed domain names: <boursoramabanque-fr.com>, <boursoramabanque-fr.net> and <fr-boursoramabanque.com> incorporate the Complainant's BOURSORAMA trademark as a whole and add the term "banque", the denomination for France "fr", and different gTLD terminations. As stated at [WIPO Overview 3.0](#), paragraph 1.8., where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element.

As regards the disputed domain name <fr-boursoarmabanque.com>, it is obvious that it incorporates a misspelling of the Complainant's trademark BOURSORAMA which renders as typosquatting under [WIPO Overview 3.0](#), paragraph 1.9, therefore the disputed domain name is confusingly similar to the Complainant's mark.

Consequently, this Panel finds that the disputed domain names are confusingly similar to the Complainant's trademark, in which the Complainant has rights, and therefore the first element of paragraph 4(a) of the Policy is established.

B. Rights or Legitimate Interests

For the second element of the Policy, based on the UDRP practice, the Complainant has to show that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. If the Complainant makes a *prima facie* showing, the burden of production of evidence shifts to the Respondent, with the overall burden of proof always remaining on the Complainant. See section 2.1 of the [WIPO Overview 3.0](#).

Considering the Complainant's contentions, it is the opinion of this Panel that the Complainant has made a strong *prima facie* showing that the Respondent lacks rights or legitimate interests in respect of the disputed domain names.

The Panel agrees with the Complainant that there is no indication that the Respondent is commonly known by “Boursorama” or it is affiliated/ authorized by the Complainant in any way.

Considering also the fact that the disputed domain names have been inactive since registration, this Panel finds that the Respondent did not make any use of disputed domain names, which confirms that the Respondent has no demonstrable preparations to use the disputed domain names in connection with a *bona fide* offering of goods or services.

Not being able to identify any grounds for rights or legitimate interests by the Respondent of the disputed domain names, it is the opinion of this Panel that the Complainant has demonstrated *prima facie*, without the same being rebutted, that the Respondent lacks any rights or legitimate interests in the disputed domain names and consequently, the second element of the paragraph 4(a) of the Policy is therefore established.

C. Registered and Used in Bad Faith

In relation to the third element, and based on the evidence brought by the Complainant in regards of the fact that the disputed domain name <boursoramabanque-fr.net> resolved to a copy of the Complainant’s official customer access page, this Panel finds that the Respondent knew of the Complainant’s BOURSORAMA trademark and related services, which is further enhanced by the use of the additional elements “banque” and “fr”, elements which are customary and often used for web pages in the banking industry.

In addition, considering the circumstance that the disputed domain names currently do not resolve to an active website, and considering the strong Internet presence the Complainant has under the trademark BOURSORAMA, this Panel finds that registration and use of the disputed domain names suggests opportunistic bad faith (see at [WIPO Overview 3.0.](#), section 3.3).

This Panel considers that the overall circumstances of the present case, clearly support the finding that the disputed domain names have been registered and are being used in bad faith, and that the Complainant has established successfully the third element under paragraph 4(a)(iii) 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 names, <boursoramabanque-fr.com>, <boursoramabanque-fr.net>, <fr-boursoarmabanque.com>, <fr-boursoramabanque.com> be transferred to the Complainant.

/Beatrice Onica Jarka/

Beatrice Onica Jarka

Sole Panelist

Date: August 17, 2022