

ADMINISTRATIVE PANEL DECISION

Boursorama S.A. v. Anne Joelle

Case No. D2023-1220

1. The Parties

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

The Respondent is Anne Joelle, United States of America.

2. The Domain Name and Registrar

The disputed domain name <fr-app-bourso.com> is registered with CloudFlare, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 20, 2023. On March 20, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 22, 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 (DATA REDACTED) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 24, 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 the same day.

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, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 20, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 21, 2023.

The Center appointed Federica Togo as the sole panelist in this matter on April 27, 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 the registered owner of French trademark No. 3009973, BOURSO, registered on July 28, 2000, for goods and services in classes 9, 35, 36, 38, 41, and 42.

The disputed domain name was registered on March 19, 2023, and resolved to a login page copying the Complainant's official customer access, reproducing without any authorization the Complainant's trademark and logos

5. Parties' Contentions

A. Complainant

It results from the Complainant's allegations that the Complainant was founded in 1995 and has been growing in Europe with the emergence of e-commerce and the continuous expansion of the range of financial products online. Its three core businesses are online brokerage, financial information on the Internet, and online banking. In France, the Complainant provides online banking services for over 4,7 million customers. The Complainant uses the domain name <boursorama.com>, which resolves to its official website. It also owns the domain name <boursocom> (registered on January 11, 2000).

The Complainant contends that its BOURSO trademark is well known and distinctive.

The Complainant further contends that the disputed domain name is confusingly similar to the Complainant's trademark BOURSO, as the disputed domain name incorporates the entirety of the Complainant's trademark BOURSO. The addition of the generic terms "fr" and "app" (abbreviations for "France" and "application") are considered not sufficient to escape the finding that the disputed domain name is confusingly similar to its trademark BOURSO.

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name. According to the Complainant, it has never licensed or otherwise authorized the Respondent to use its trademark BOURSO or to register any domain name including the above-mentioned disputed domain name. In addition, the Respondent is not known as the disputed domain name. Moreover, the disputed domain name resolves to a login page copying the Complainant's official customer access available at the website "<https://clients.boursorama.com/connexion/>". This page could be used in order to collect personal information of the Complainant's clients. Thus, the Respondent's website cannot be considered as a *bona fide* offering of services or fair use, since the website can mislead the consumers into believing that they are accessing the Complainant's website.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. According to the Complainant, since the disputed domain name resolves to a login page copying the Complainant's official customer access, and the website does not contain any information about the Respondent, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to his website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of his websites (par. 4(b)(iv) of the Policy). Besides, the Respondent can collect personal information through this website, namely passwords.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs this Panel to “decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”. Paragraph 4(a) of the Policy requires a complainant to prove each of the following three elements in order to obtain an order that the disputed domain name be transferred or cancelled:

- (i) the disputed domain name is 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 name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Panel will therefore proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied.

A. Identical or Confusingly Similar

Pursuant to paragraph 4(a)(i) of the Policy, the Complainant must establish rights in a trademark or service mark and secondly establish that the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights.

It results from the evidence provided, that the Complainant is the registered owner of trademark registration for BOURSO as indicated in the Factual Background of this Decision.

Prior UDRP panels have found that a disputed domain name is confusingly similar to a complainant’s trademark where the disputed domain name incorporates the complainant’s trademark in its entirety (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) at section 1.7.

This Panel shares this view and notes that the Complainant’s registered trademark BOURSO is fully included in the disputed domain name, preceded by the letters “fr” and the term “app” and hyphens. Furthermore, it is the view of this Panel that the addition of the terms “fr” and “app” and hyphens in the disputed domain name cannot prevent a finding of confusing similarity between the disputed domain name and the Complainant’s trademark since the Complainant’s trademark is clearly recognizable in the disputed domain name (see [WIPO Overview 3.0](#) at section 1.8).

Finally, the generic Top-Level Domain (“gTLD”) “.com” of the disputed domain name may be disregarded under the first element confusing similarity test (see [WIPO Overview 3.0](#) at section 1.11.1). In the light of the above, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(a)(ii) of the Policy, the Complainant must secondly establish that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Paragraph 4(c) of the Policy contains a non-exhaustive list of circumstances which, if found by the Panel to be proved, shall demonstrate the Respondent’s rights or legitimate interests to the disputed domain name. In the Panel’s view, based on the undisputed allegations stated above, the Complainant has made a *prima facie* case that none of these circumstances are found in the case at hand and, therefore, that the Respondent lacks rights or legitimate interests in the disputed domain name.

According to the Complaint, which has remained unchallenged, the Complainant has no relationship in any way with the Respondent and, in particular, did not authorize the Respondent’s use of the trademark BOURSO, e.g. by registering the disputed domain name comprising the said trademark entirely.

Moreover, the nature of the disputed domain name carries a risk of implied affiliation, since the disputed domain name contains the Complainant's trademark BOURSO preceded by the letters "fr" - which are the geographical abbreviation for France, where the Complainant is located - and the term "app" - which stands for application and has an "inherent Internet connotation" (and hyphens). Geographical terms and terms with an "inherent Internet connotation" are seen as tending to suggest sponsorship or endorsement by the trademark owner, see [WIPO Overview 3.0](#) at section 2.5.1.

It is acknowledged that once the Panel finds a *prima facie* case is made by a complainant, the burden of production under the second element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name (see [WIPO Overview 3.0](#) at section 2.1). Since the Complainant has put forward a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name and the Respondent in the case at hand failed to come forward with any allegations or evidence, this Panel finds, in the circumstances of this case, that the Respondent has no rights or legitimate interests in the disputed domain name.

The Panel finds that the Complainant has therefore satisfied 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 thirdly establish that the disputed domain name has been registered and is being used in bad faith. The Policy indicates that certain circumstances specified in paragraph 4(b) of the Policy may, "in particular but without limitation", be evidence of the disputed domain name's registration and use in bad faith. One of these circumstances is that the Respondent by using the disputed domain name, has intentionally attempted to attract, for commercial gain, Internet users to its 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 its website or location or of a product or service on its website or location (paragraph 4(b)(iv) of the Policy).

It is the view of this Panel that these circumstances are met in the case at hand.

It results from the Complainant's documented allegations that the disputed domain name resolved to a login page copying the Complainant's official customer access, reproducing without any authorization the Complainant's trademark and logos.

For the Panel, it is therefore evident that the Respondent knew the Complainant's mark. Consequently, and in the absence of any evidence to the contrary, the Panel is convinced that the Respondent also knew that the disputed domain name included the Complainant's trademark when it registered the disputed domain name. This is underlined by the fact that the disputed domain name is clearly constituted by the Complainant's registered trademark BOURSO preceded by the letters "fr", which are the geographical abbreviation for France, where the Complainant is located and the term "app" – which stands for application and has an "inherent Internet connotation" (and hyphens).

Finally, the further circumstances surrounding the disputed domain name's registration and use confirm the findings that the Respondent has registered and is using the disputed domain name in bad faith (see [WIPO Overview 3.0](#) at section 3.2.1):

- (i) the nature of the disputed domain name (a domain name incorporating the Complainant's mark plus the addition of the letters "fr" and the term "app");
- (ii) the content of the website to which the disputed domain name directs, a login page copying the Complainant's official customer access and reproducing without any authorization the Complainant's trademark and logos; and,
- (iii) a clear absence of rights or legitimate interests coupled with no credible explanation for the Respondent's choice of the disputed domain name.

The Panel finds that the Complainant has therefore satisfied 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 name, <fr-app-bourso.com>, be transferred to the Complainant.

/Federica Togo/

Federica Togo

Sole Panelist

Date: May 11, 2023