

ADMINISTRATIVE PANEL DECISION

Boursorama v. hbjbj yfc, ugug
Case No. D2023-3839

1. The Parties

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

The Respondent is hbjbj yfc, ugug, France.

2. The Domain Names and Registrar

The disputed domain names <boursoramama.com> and <compte-boursorama-banque-clients.com> are registered with Amazon Registrar, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 14, 2023. On September 14, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 18, 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 (Identity Protection Service) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 19, 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 20, 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 20, 2023.

The Center appointed Benjamin Fontaine as the sole panelist in this matter on October 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 a French company specializing in online brokerage, online banking services, and financial information on the Internet.

The Complainant is the owner in particular of the European Union trade mark No. 1758614 over the word mark BOURSORAMA, filed on July 13, 2000, and registered on October 19, 2001, in classes 9, 16, 35, 36, 38, 41, and 42.

The Complainant has also registered several domain names corresponding to its trade mark BOURSORAMA, including <boursorama.com>, registered since March 1, 1998.

The disputed domain names <boursoramma.com> and <compte-boursorama-banque-clients.com> were respectively registered on September 13, 2023, and September 14, 2023, by the Respondent. The identity of the Respondent was disclosed by the Registrar in the course of the proceeding: the Respondent seemingly provided false contact details when registering both disputed domain names, including an imaginary postal address in France.

The disputed domain name <boursoramma.com> redirected users to the website configured on the disputed domain name <compte-boursorama-banque-clients.com>: “https://compte-boursorama-banque-clients.com/”, which consisted in a login page copying the Complainant’s official client access, including the colors and logos used by the Complainant.

5. Parties’ Contentions

A. Complainant

The Complainant’s arguments in support of its Complaint can be summarized as follows:

First, the Complainant states that the disputed domain names are confusingly similar to its trade mark BOURSORAMA. Indeed, BOURSORAMA is fully reproduced in the two disputed domain names. The addition of the letters “r” and “m” in the disputed domain name <boursoramma.com> and, the addition of the French terms “compte”, “banque”, and “clients” in the disputed domain name <compte-boursorama-banque-clients.com> have no impact on this assessment. Likewise, the addition of the generic Top-Level Domain “.com” has no impact either and should be disregarded for the comparison.

Second, the Complainant asserts that the Respondent “is not known as the disputed domain names” and is not known by the Complainant either. The Respondent is not affiliated with nor authorized by the Complainant in any way in respect of the disputed domain names. The Complainant does not carry out any activity for, nor has any business with the Respondent, and no license or other authorization has been granted to the Respondent to register domain names incorporating the trade mark BOURSORAMA. Moreover, the disputed domain names are not currently subject to a *bona fide* offering of goods or services.

Third, the Complainant contends that given the distinctiveness and reputation of its well-known trade mark BOURSORAMA, it is reasonable to infer that the Respondent has registered the disputed domain names with full knowledge of its earlier trade marks. In addition, insofar as the disputed domain names were configured in order to resolve to a login page reproducing the Complainant’s official client access, the

Respondent necessarily had knowledge of the Complainant's trade marks. The Respondent intentionally attempted to attract, for commercial gain, Internet users to its website, in order to collect personal information. Therefore, the disputed domain names were registered and are being used in bad faith.

The Complainant requests the transfer of the disputed domain names.

B. Respondent

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

6. Discussion and Findings

For the Complainant to succeed, it must prove, within the meaning of paragraph 4(a) of the Policy and on the balance of the probabilities that:

- (i) the disputed domain names are identical or confusingly similar to a trade mark 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.

A. Identical or Confusingly Similar

The Complainant, under the first requirement of paragraph 4(a) of the Policy, needs to establish that the disputed domain names are confusingly similar to a trade mark or a service mark in which it has rights. This is primarily a standing requirement.

The Complainant has established rights over the trade mark BOURSORAMA.

This trade mark is reproduced identically or clearly perceivable in the disputed domain name <compte-boursorama-banque-clients.com>. The addition of the elements "compte", "banque", and "clients" does not prevent this finding. Indeed, as stated in WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7, "in cases where a domain name incorporates the entirety of a trade mark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing".

The Complainant's trade mark is also clearly perceivable in the disputed domain name <boursoramama.com>, in which the letters "r" and "m" have simply been duplicated. This constitutes an example of typosquatting as described in [WIPO Overview 3.0](#), section 1.9.

For the reasons above, the Panel finds that the disputed domain names are confusingly similar to the Complainant's trade mark.

The Complainant is deemed to have satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under the Policy, a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name. Once such a *prima facie* case is made, the respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the respondent fails to do so, the complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

In that sense, the Panel finds that the Complainant has made a *prima facie* case against the Respondent, who has not been commonly known by the disputed domain names and is not affiliated with the Complainant nor has it been licensed or otherwise permitted to use any of the Complainant's trade marks or to register several domain names incorporating or imitating its trade mark BOURSORAMA. In contrast to these facts, the Respondent has registered two disputed domain names that are inherently misleading, given that one is an example of typosquatting, duplicating two letters within the Complainant's trade marks, and the other adds to the Complainant's distinctive trade marks terms descriptive of the industry within which the Complainant operates.

Besides, the Respondent was not making a *bona fide* use of the disputed domain names, as it operated a phishing scam to the detriment of the Complainant and its customers.

Accordingly, and absent specific allegations by the Respondent, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

In order to prevail under the third element of paragraph 4(a)(iii) of the Policy, a complainant must demonstrate that the disputed domain name has been registered and is being used in bad faith.

Paragraph 4(b) of the Policy lists a number of circumstances which, without limitation, are deemed to be evidence of the registration and use of a domain name in bad faith. These are:

(i) circumstances indicating that [a respondent has] registered or acquired a disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name to the complainant or to a competitor of the complainant, for valuable consideration in excess of [the respondent's] documented out-of-pocket costs directly related to the disputed domain name; or

(ii) [the respondent has] registered the disputed domain name in order to prevent the complainant from reflecting the complainant's trade mark or service mark in a corresponding domain name, provided that [the respondent has] engaged in a pattern of such conduct; or

(iii) the respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the disputed domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent's] 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 [the respondent's] website or location or of a product or service on [the respondent's] website or location.

With regards to registration in bad faith, the Panel notes that the trade mark BOURSORAMA is inherently distinctive and well known in France. The Respondent undoubtedly had it in mind when it registered the disputed domain name. The word "boursorama" is configured to as to look very much alike the trade mark "boursorama", as the duplication of letters produces a limited visual impact. Also, the second disputed domain name <compte-boursorama-banque-clients.com> combines BOURSORAMA with words that directly refer to the Complainant's activities in the banking sector (in English: "account", "bank", and "clients").

Therefore, the Panel finds that the disputed domain names were registered in bad faith.

With regard to use in bad faith, the Respondent has used the disputed domain name to host (or redirect to) a login page that reproduces the Complainant's official client access. This could be done as part of a phishing scam, to obtain the data and access codes of the Complainant's clients. Such fraudulent activity amounts to bad faith use. Lastly, the Respondent appears to have used false contact information, including a fictitious name, when registering the disputed domain name, which supports the Panel's general finding of bad faith.

Accordingly, the third criteria element set out in paragraph 4(a) of the Policy is also satisfied.

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, <bourrsoramma.com> and <compte-boursorama-banque-clients.com>, be transferred to the Complainant.

/Benjamin Fontaine/

Benjamin Fontaine

Sole Panelist

Date: November 10, 2023