

ADMINISTRATIVE PANEL DECISION

Boursorama v. amadou mbouombouo
Case No. D2023-4927

1. The Parties

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

The Respondent is amadou mbouombouo, Cameroon.

2. The Domain Name and Registrar

The disputed domain name <boursoramabanque.vip> is registered with Key-Systems GmbH (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 27, 2023. On November 28, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 30, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 30, 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 December 1, 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 December 6, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 26, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 2, 2024. On January 2, 2024, the Center received an informal email communication from an apparent third-party.

The Center appointed Steven A. Maier as the sole panelist in this matter on January 10, 2024. 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 company registered in France. It is a provider of financial services, including online brokerage, information and banking.

The Complainant is the owner of various trademark registrations comprising or including the name BOURSORAMA. Those registrations include:

- European Union trademark registration number 001758614 for the word mark BOURSORAMA, registered on October 19, 2001, in International Classes 9, 16, 35, 36, 38, 41 and 42; and
- France trademark registration number 3676762 for a combined mark BOURSORAMA BANQUE, registered on February 19, 2010, in International Classes 35, 36 and 38.

The Complainant operates a website at “www.boursorama.com” and also claims ownership of the domain name <boursoramabanque.com>, which was registered on May 26, 2005.

The disputed domain name, <boursoramabanque.vip>, was registered on November 23, 2023. It does not appear to have resolved to any active website.

5. Parties' Contentions

A. Complainant

The Complainant submits that it is a leading provider of financial services in France, with over 5.4 million customers.

The Complainant submits that the disputed domain name is confusingly similar to its trademarks BOURSORAMA and BOURSORAMA BANQUE, ignoring the generic Top-Level Domain (“gTLD”) “.vip”. In the case of the first trademark, the Complainant contends that the disputed domain name incorporates that trademark in full and is not distinguished by the inclusion of the additional term “banque”. In respect of the second trademark, the Complainant submits that the disputed domain name directly replicates that mark.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It states that it has no relationship with the Respondent and has never authorized it to use its BOURSORAMA trademark, that the Respondent has not commonly been known by the disputed domain name, and that the Respondent is not making any use of the disputed domain name.

The Complainant submits that the disputed domain name has been registered and is being used in bad faith. It contends that, given the distinctiveness of the Complainant's BOURSORAMA trademark and its reputation, it is reasonable to infer that the Respondent must have been aware of it when it registered the disputed domain name. The Complainant further contends that it is not possible to conceive of any active use of the disputed domain name that would not infringe the Complainant's rights.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

The Respondent did not file a formal Response in the proceeding. In the informal email dated January 2, 2024, the (third-party) sender stated that the disputed domain name had been registered “without really knowing it was a trademark” and that it had effectively been abandoned. However, no evidence was provided to support its allegations.

6. Discussion and Findings

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are that:

- (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.

A. Identical or Confusingly Similar

The Complainant has established that it has registered trademark rights in the marks BOURSORAMA and BOURSORAMA BANQUE. The disputed domain name wholly incorporates the first of those trademarks, and the addition of the term “banque” does not prevent the trademark from being recognizable within the disputed domain name. The disputed domain name is identical to the textual element of the Complainant’s second trademark. The Panel therefore finds that the disputed domain name is confusingly similar to a trademark or trademarks in which the Complainant has rights.

B. Rights or Legitimate Interests

In the view of the Panel, the Complainant’s submissions set out above give rise to a prima facie case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. However, the Respondent has failed to file a Response in this proceeding and has not submitted any explanation for its registration and use of the disputed domain name, or evidence of rights or legitimate interests on its part in the disputed domain name, whether in the circumstances contemplated by paragraph 4(c) of the Policy or otherwise. The Panel therefore finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C. Registered and Used in Bad Faith

The Panel finds the Complainant’s trademarks BOURSORAMA and BOURSORAMA BANQUE to be distinctive in nature, and to have garnered substantial reputation and goodwill in connection with financial services. Furthermore, the Panel has seen no evidence that the name and mark BOURSORAMA is anything other than a coined term, which has been used exclusively in commerce to refer to the Complainant and its services.

In the circumstances, the Panel accepts the Complainant’s submissions with regard to bad faith. The Panel finds it is more likely than not that the Respondent registered the disputed domain name with knowledge of the Complainant’s trademarks and with the intention of taking unfair commercial advantage of the Complainant’s related goodwill. In view of the inevitability of confusion between the disputed domain name and the Complainant’s trademarks, the Panel is also of the view that it is impossible to conceive of any use that could be made of the disputed domain name by the Respondent that would not infringe the Complainant’s intellectual property rights.

The Panel finds it immaterial in these circumstances that no active use appears to have been made of the disputed domain name (see e.g., *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

The Panel therefore finds that the disputed domain name has been registered and is being used in bad faith.

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, <boursoramabanque.vip>, be transferred to the Complainant.

/Steven A. Maier/

Steven A. Maier

Sole Panelist

Date: January 24, 2024