

ADMINISTRATIVE PANEL DECISION

Boursorama v. blaze blaze

Case No. D2024-0056

1. The Parties

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

The Respondent is blaze blaze, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <boursorama-soutien-alerte.com> is registered with Nicenic International Group Co., Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 8, 2024. On January 8, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 9, 2024, 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 (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 10, 2024, 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 January 10, 2024.

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 January 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 1, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 5, 2024.

The Center appointed Peter Burgstaller as the sole panelist in this matter on February 9, 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 provides services especially in the fields of online banking, online brokerage and financial information on the Internet (Annex 3 to the Complaint). It owns the European Union word trademark registration BOURSORAMA, No. 001758614, registered October 19, 2001 (Annex 4 to the Complaint).

The Complainant also owns the domain name <boursorama.com> registered March 1, 1998, which addresses its official company website. Further, the Complainant owns the domain name <boursoramasoutienalerte.com>, registered on March 27, 2023 (Annex 5 to the Complaint).

The disputed domain name was registered on January 7, 2024 (Annex 1 to the Complaint). Currently, the disputed domain name does not resolve to an active website. At filing of the Complaint, the Complainant claims that the disputed domain name used to redirect to the Complainant's website at <boursorama.com>.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to its well-known and distinctive registered trademark BOURSORAMA since it contains the trademark in its entirety, simply adding the terms "soutien" (meaning "support") and "alerte" (meaning "warning").

Further, the Complainant asserts that the Respondent is not commonly known by or has rights in the disputed domain name; moreover, it has never assigned, granted, licensed, sold, transferred, or in any way authorized the Respondent to register or use the BOURSORAMA trademark in any manner.

Finally, at the time of the filing of the Complaint, the disputed domain name redirected to the Complainant's official website under <boursorama.com>. Therefore, the Respondent must have been aware of the Complainant and its BOURSORAMA mark and is not making a bona fide offering of goods or services by means of the disputed domain name, or a legitimate noncommercial or fair use of it.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, the Complainant must prove that:

- (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 with respect to 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

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 1.7.

The Complainant submitted evidence, which incontestably and conclusively establishes rights in the mark BOURSORAMA.

In the present case the disputed domain name is confusingly similar to the BOURSORAMA mark in which the Complainant has rights since it only adds the terms “soutien” (which means “support” in French) and “alerte” (which means “warning” in French) to the mark.

It has long been established under UDRP decisions that where the relevant trademark is recognizable within the disputed domain name the mere addition of a term will not prevent a finding of confusing similarity under the first element of the Policy. [WIPO Overview 3.0](#), section 1.8.

This is the case at present, since the mark BOURSORAMA is distinctive and dominant in the disputed domain name.

Finally, it has also long been held that generic Top-Level-Domains are generally disregarded when evaluating the confusing similarity of a disputed domain name.

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name, which has not rebutted by the Respondent.

In addition, the Panel finds that the disputed domain name carries a risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

As stated in many decisions rendered under the Policy, both conditions, registration and use in bad faith, must be demonstrated; consequently, the Complainant must show that:

- the disputed domain name was registered by the Respondent in bad faith; and
- the disputed domain name is being used by the Respondent in bad faith.

(a) Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a distinctive trademark by an unaffiliated entity (as it is in the present case) can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

Moreover, the disputed domain name contains the terms “soutien” and “alerte” as suffix to the distinctive BOURSORAMA mark, which in fact even strengthens the impression that the Respondent must have known of the Complainant’s mark when registering the disputed domain name, since the terms refer to an often used suffix for services in connection with IT-security. In fact, even the Complainant owns a domain name containing the descriptive terms “soutien” and “alerte” namely <boursoramasoutienalerte.com> which supports the finding of bad faith registration by the Respondent.

The Panel is therefore convinced that it is inconceivable that the Respondent has registered the disputed domain name without knowledge of the Complainant’s distinctive trademark BOURSORAMA; this is further supported by the fact that the Complainant has a strong Internet presence under its domain name <boursorama.com> to which the disputed domain name used to redirect, and the Complainant has rights in and is using the mark BOURSORAMA for years and long before the registration of the disputed domain name.

The Panel is therefore convinced that the disputed domain name was registered with full knowledge of the Complainant’s rights and as such in bad faith by the Respondent.

(b) The Complainant supports that the disputed domain name used to redirect to the Complainant’s official website. In doing so, the Respondent intentionally attempted to attract Internet users to its website for commercial gain, by creating a likelihood of confusion with the Complainant’s trademark BOURSORAMA as to the source, sponsorship, affiliation or endorsement of its website according to paragraph 4(b)(iv) of the Policy and as such, this constitutes bad faith use of the disputed domain name. [WIPO Overview 3.0](#), section 3.1.4

This Panel also finds that the current non-use of the disputed domain name does not prevent a finding of bad faith, especially putting emphasis on the following:

- the Complainant’s trademark BOURSORAMA is distinctive and has a strong Internet presence;
- the Respondent has failed to present any evidence of any good faith use with regard to the disputed domain name;
- the disputed domain name is inherently misleading, and is thus suited to divert or mislead potential web users from the website they are actually trying to visit (the Complainant’s site); and
- there is no conceivable plausible good faith use with regard to the disputed domain name.

The evidence and documents produced and put forward by the Complainant together with the fact that the Respondent has failed to present any evidence of any good faith registration and use with regard to the disputed domain name supports the finding of bad faith.

Based on the available record, the Panel finds that the Complainant has established the third element 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 <boursorama-soutien-alerte.com> be transferred to the Complainant.

/Peter Burgstaller/

Peter Burgstaller

Sole Panelist

Date: February 21, 2024