

ADMINISTRATIVE PANEL DECISION

Boursorama S.A. v. Liu Fen
Case No. DCO2022-0108

1. The Parties

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

The Respondent is Liu Fen, China.

2. The Domain Name and Registrar

The disputed domain name <boursoco> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 29, 2022. On November 29, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on December 8, 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 8, 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 January 4, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 24, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 3, 2023.

The Center appointed Dennis A. Foster as the sole panelist in this matter on February 9, 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 created in 1995 that supplies online financial, brokerage and banking services to millions of Internet customers in France and elsewhere. The Complainant conducts its business under its BOURSO trademark, which is registered in France with the *Institut National de la Propriété Industrielle* (“INPI”) (i.e., Registration No. 3009973; registered on February 22, 2000).

The Respondent owns the disputed domain name, <bourso.co>, which was registered on November 24, 2022. The disputed domain name resolves to a website that prominently offers that name for sale at a price of USD 1,450.

5. Parties’ Contentions

A. Complainant

- A French company, the Complainant was founded in 1995 and provides financial information through the Internet as well as online brokerage and banking services. The Complainant has gained over 3.3 million customers in France while operating under the BOURSO trademark. The Complainant does business in connection with several domain names, including <bourso.com>.
- The disputed domain name, <bourso.co>, is identical to the Complainant’s BOURSO trademark. The mark is included in its entirety within the disputed domain name, and the addition of the “.co” country code Top-Level Domain (“ccTLD”) is inconsequential.
- The Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not affiliated with or authorized by the Complainant in any manner; and no license to use the BOURSO trademark has been granted to the Respondent. There is no evidence that the Respondent is commonly known as the disputed domain name. Also, no legitimate use is being made of the disputed domain name, which has been put up for sale by the Respondent.
- The Respondent registered and is using the disputed domain name in bad faith. The Respondent’s copy of the Complainant’s well-known and distinctive BOURSO mark in the disputed domain name is clear evidence of the inference that the Respondent registered the disputed domain name with full knowledge of that mark. Moreover, the Respondent’s online offer to sell the disputed domain name for USD 1,450, which is well in excess of his legitimate out-of-pocket costs, is conclusive evidence of the Respondent’s bad faith registration and use of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

Pursuant to paragraphs 4(a)(i) - (iii) of the Policy, the Panel may find for the Complainant and order a transfer of the disputed domain name, <bourso.co>, if the Complainant establishes that:

- The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- The Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- The disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has provided the Panel with appropriate evidence of its possession of a valid trademark registration with the INPI for the BOURSO mark, and thus the Panel finds that the Complainant has rights in that mark to meet the requirements of Policy paragraph 4(a)(i). See, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.21 ("Where the complainant holds a nationally or regionally registered trademark or service mark, this *prima facie* satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case.").

Clearly, the disputed domain name, <boursoco>, contains the Complainant's BOURSO trademark in its entirety with no additions, except for the ".co" ccTLD. As has been affirmed by prior UDRP panels, that form of addition is irrelevant in determining the similarity of disputed domain names and valid trademarks. Accordingly, the Panel concludes that the disputed domain name is identical to the Complainant's mark under Policy paragraph 4(a)(i). See, *Boursorama S.A. v. 葛荣凯 (Ge Rong Kai)*, WIPO Case No. [D2022-4242](#), (finding that <boursoco> is identical to the BOURSO mark); and *F. Hoffmann-La Roche AG v. Macalve e-dominios S.A.*, WIPO Case No. [D2006-0451](#) ("It is also well established that the specific top level of a domain name such as '.com', '.org' or '.net' does not affect the domain name for the purpose of determining 'whether it is identical or confusingly similar.'").

Therefore, the Panel finds that the Complainant has demonstrated that the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

Prior Policy panels have stated clearly that a complainant can present a *prima facie* case that a respondent lacks rights or legitimate interests in a disputed domain name, and then the burden shifts to that respondent to present persuasive evidence that it does possess those rights or interests. See, [WIPO Overview 3.0](#), section 2.1; and *OSRAM GmbH. v. Mohammed Rafi/Domain Admin, Privacy Protection Service INC d/b/a PrivacyProtect.org*, WIPO Case No. [D2015-1149](#) ("...once the complainant makes a *prima facie* showing under paragraph 4(a)(ii) of the Policy, paragraph 4(c) shifts the burden of production to the respondent to come forward with evidence of rights or legitimate interests in a disputed domain name.").

The Complainant has shown the Panel that the disputed domain name is identical to its valid trademark and asserted clearly that neither is it affiliated with the Respondent nor has it authorized or licensed the Respondent to use that mark in any manner. The Panel determines that those circumstances create a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name.

Since the Respondent has failed to file a Response, the Panel will rely on the reasonable assertions found in the Complaint to ascertain whether there is a feasible rebuttal to the Complainant's *prima facie* case. See, *OSRAM GmbH. v. Mohammed Rafi/Domain Admin, Privacy Protection Service INC d/b/a PrivacyProtect.org, supra* ("The Respondent has not submitted a response to the Complaint, in the absence of which the Panel may accept all reasonable inferences and allegations in the Complaint as true.").

A Complaint attachment (Annex 6) presents a screen shot of the web page connected to the disputed domain name that is dominated by a display that offers to sell the disputed domain name for USD 1,450. The Panel believes that this usage fails to constitute "a *bona fide* offering of goods or services" as would satisfy the requirements of Policy paragraph 4(c)(i). Moreover, nothing in the record of this case suggests to the Panel that the Respondent, Liu Fen, is commonly known as the disputed domain name, <boursoco>, making Policy paragraph 4(c)(ii) inapplicable to this case. Finally, the sale offer noted above is not, in the opinion of the Panel, consistent with a "legitimate noncommercial or fair use" of the disputed domain name that would comply with paragraph 4(c)(iii) of the Policy.

Finding no reasonable rebuttal in the record, the Panel concludes that the Complainant's *prima facie* case prevails.

Therefore, the Panel finds that the Complainant has demonstrated that the Respondent has no rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

Policy paragraph 4(b)(i) specifies a criterion upon which the Panel may base a finding of bad faith registration and use of the disputed domain name as follows:

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

The Panel has noted above that the disputed domain name's resolving website contains a prominent and explicit offer to sell the disputed domain name for the price of USD 1,450. The Panel believes that the requested payment is far beyond the reasonable out-of-pocket costs directly related to the Respondent's ownership of the disputed domain name. As a result, the Panel relies on paragraph 4(b)(i) in finding that the Respondent has registered and is using the disputed domain name in bad faith. See, *Banque Pictet & Cie SA v. Alan Meltzer*, WIPO Case No. [DAU2015-0017](#) (finding bad faith registration and use of a disputed domain name where "[t]he disputed domain name is offered for sale on the Website for USD1,500, an amount in excess of the likely out-of-pocket expenses incurred by the Respondent in registering the disputed domain name."), and *Bellbourne House Limited v. Forsyte Corporation*, WIPO Case No. [D2009-0204](#).

Therefore, the Panel finds that the Complainant has demonstrated that the disputed domain name was 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, <boursoco>, be transferred to the Complainant.

/Dennis A. Foster/

Dennis A. Foster

Sole Panelist

Date: February 23, 2023