

ADMINISTRATIVE PANEL DECISION

Boursorama S.A. v. maeva lechamp
Case No. DCO2022-0110

1. The Parties

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

The Respondent is maeva lechamp, France.

2. The Domain Name and Registrar

The disputed domain name <boursorama-banques.co> 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 December 6, 2022. On December 6, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 8, 2022, 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 (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 14, 2022 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 14, 2022.

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 15, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 4, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 5, 2023.

The Center appointed Benjamin Fontaine as the sole panelist in this matter on January 12, 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 corporation rendering online brokerage, online banking, and financial information services on the Internet. According to the evidence filed with the Complaint, the Complainant has over 4 million customers, and it receives over 54 million monthly visits to its websites.

The Complainant owns and operates several domain names, notably <boursorama.com> and <boursorama-banque.com>.

The Complainant bases its Complaint on the following two trade marks:

- The European Union Trade Mark No.1758614 for the word mark BOURSORAMA, registered on October 19, 2001;
- The French trade mark No. 3676762 for the word and device mark BOURSORAMA BANQUE (below), registered on February 19, 2010.



The disputed domain name was registered on November 30, 2022. The identity of the Respondent, an individual domiciled in France, was disclosed by the Registrar in the course of this proceeding.

The disputed domain name was used to redirect users to a website promoting professional assessment on online sports betting. The information is provided in French.

5. Parties' Contentions

A. Complainant

The arguments of the Complainant can be summarized as follows:

On the first element of the Policy, the Complainant claims that the disputed domain name is confusingly similar to its trade marks BOURSORAMA and BOURSORAMA BANQUE. The addition of the word "banques" increases such confusion as it relates to the Complainant's activity.

On the second element of the Policy, the Complainant argues that:

- i. the Respondent is not identified in the Whois database as the owner of the disputed domain name;
- ii. the Respondent is not known by the disputed domain name, or authorized to register and use it by the Complainant: it "is not affiliated with nor authorized by the Complainant in any way. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant does not carry out any activity for, nor has any business with the Respondent";
- iii. the Respondent is not making a *bona fide* use of the disputed domain name, as it "resolves to a website written in French and giving information regarding sports betting. The Complainant contends that the Respondent used the disputed domain name in a way that fails to confer rights and legitimate interests, as it is used to promote unrelated services".

On the third element of the Policy, the Complainant highlights that the disputed domain name incorporates the well-known trade mark BOURSORAMA, and that the addition of the word “banques” cannot be coincidental. Therefore, the Respondent knew about the Complainant’s rights and activities. Besides, the disputed domain name is used in bad faith, as “the Respondent attempts to attract internet users by creating a likelihood of confusion with the Complainant’s trade mark. The Respondent is obtaining commercial gain from its use of the disputed domain name and the resolving website”.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy sets forth the following three requirements, which have to be met for this Panel to order the transfer of the disputed domain name to the Complainant:

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

The Complainant must prove in this administrative proceeding that each of the aforesaid three elements is present so as to have the disputed domain name transferred to it, according to paragraph 4(i) of the Policy.

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 name is identical or confusingly similar to a trade mark or a service mark in which it has rights. This first criterion is perceived primarily as a standing requirement for the Complainant.

The Complainant has established rights over the trade marks BOURSORAMA and BOURSORAMA BANQUES.

The disputed domain name incorporates the Complainant’s trade mark BOURSORAMA in its entirety with the addition of a hyphen and the term “banques”. This addition does not prevent the disputed domain name from being confusingly similar with the trade mark BOURSORAMA, which remains immediately perceivable. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 1.8.

Moreover, the disputed domain name is also confusingly similar to the trade mark BOURSORAMA BANQUES of the Complainant, which is reproduced nearly identically. Again, the addition of a letter “s” at the end of “banques”, so as to confer it a plural form, is hardly noticeable and does not prevent confusing similarity.

For the reasons above, the Panel finds that the disputed domain name is confusingly similar to the Complainant’s trade marks.

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 production to demonstrate rights or legitimate interests in the disputed domain name. If

the respondent fails to do so, the complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy (see [WIPO Overview 3.0](#), section 2.1).

In this case, the Respondent has not rebutted the allegations made by the Complainant. The Respondent has no rights, and no legitimate interests, in the disputed domain name.

Besides, the operation by the Respondent of a website which promotes online sports betting does not amount to a *bona fide* offering of goods and services. As highlighted by the Complainant, the services offered are totally disconnected from the configuration of the disputed domain name. The disputed domain name creates initial confusion as users will directly associate it to the Complainant, yet users are directed to a website that promotes the Respondent's unrelated business activities.

For this reason, and failing any specific allegation by the Respondent, the second element of the Policy is deemed to be satisfied.

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.

Indisputably, the disputed domain name was specifically designed to target the Complainant. Indeed, it combines the trade mark BOURSORAMA, which is both inherently distinctive and well known in France, with the word "banques" that describes the Complainant's activities. Also, the disputed domain name is nearly identical to the trade mark BOURSORAMA BANQUE, which is used by the Complainant to provide its banking services to millions of customers.

Besides, the Panel notes that the Respondent has chosen to register the disputed domain name under the Top-Level Domain ".co", which is similar to the Top-Level Domain ".com" used by the Complainant in its domain names referenced above. Cybersquatters often find attractive domain names similar to domain names operated by brand owners in order to catch Internet users in the hope that they might commit a typo, e.g. by omitting the letter "m" when entering a website address.

Therefore, the Panel finds that the disputed domain name was registered in bad faith.

Regarding the use of the disputed domain name, the Panel note that the circumstances foreseen at paragraph 4(b)(iv) of the Policy are met here: the Respondent is creating initial confusion with the Complainant's trade mark and services in order to generate traffic and redirect it to its own website to promote its business activities in the field of online sports betting. The Complainant's trade marks BOURSORAMA and BOURSORAMA BANQUE are used primarily online, its websites cumulate over 50 million monthly visits, and it is therefore tempting for cybersquatters to try to take advantage of this power of attraction.

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 name <boursorama-banques.co> be transferred to the Complainant.

/Benjamin Fontaine/

Benjamin Fontaine

Sole Panelist

Date: January 26, 2023