

ADMINISTRATIVE PANEL DECISION

BOURSORAMA S.A. v. Sergey Ivanov

Case No. D2022-4863

1. The Parties

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

The Respondent is Sergey Ivanov, Russian Federation.

2. The Domain Name and Registrar

The disputed domain name <client-boursorama.site> is registered with Registrar of Domain Names REG.RU LLC (the “Registrar”).

3. Procedural History

The Complaint in English was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 19, 2022. On December 20, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 22, 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 (Private Person) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 22, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint.

The Registrar also indicated that the language of the registration agreement is Russian. On December 22, 2022, the Center sent an email communication to the Parties in both Russian and English inviting the Complainant to submit satisfactory evidence of an agreement between the Complainant and the Respondent to the effect that the proceedings should be in English; or submit the Complaint translated into Russian; or submit a request for English to be the language of the administrative proceedings.

The Complainant filed an amended Complaint on December 23, 2022. It also filed on the same date a request that English be the language of the proceedings. The Respondent did not comment on the language of the proceedings.

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 10, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 30, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 31, 2023.

The Center appointed Clark W. Lackert as the sole panelist in this matter on February 10, 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 an online financial institution which offers brokerage, banking, and financial information to its clients via the Internet. It was founded in 1995 and in France alone currently has 3.3 million customers. Its principal website found at "www.boursorama.com" serves as its primary vehicle for communicating with its clients.

The Complainant owns the trademark BOURSORAMA and has registered it the European Union and France as follows:

Jurisdiction	Registration Number	Registration Date
European Union	EUIPO - 001758614	October 19, 2001
France	FR - 98723359 (& others)	August 28, 1998 (& others)

The Complainant has included the trademark in domain names, including <boursorama.com>, registered February 28, 1998, which is its principal website.

The disputed domain name was registered on December 15, 2022, long after the claimed rights of the Complainant. The disputed domain name resolves to a login page copying the Complainant's official customer access.

5. Parties' Contentions

A. Complainant

The disputed domain name was registered on December 15, 2022, and resolves to a login page copying the Complainant's official customer access. The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights. The addition of the descriptive term "client" does not change the overall impression of the designation as being connected to the Complainant's trademark BOURSORAMA. It is well established that "a domain name that wholly incorporates a Complainant's registered trademark may be sufficient to establish confusing similarity for purposes of the UDRP". See *Dr. Ing. h.c. F. Porsche AG v. Vasily Terkin*, WIPO Case No. [D2003-0888](#), concerning <porsche-autoparts.com>. Moreover, the Complainant contends that the addition of the new generic Top-Level Domain ("gTLD") suffix ".site" does not change the overall impression of the designation as being connected to the trademark BOURSORAMA of the Complainant. See *F. Hoffmann-La Roche AG v. Macalve e-dominios S.A.*, WIPO Case No. [D2006-0451](#) concerning <all-about-tamiflu.com>. ("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."). Thus, the disputed domain name is confusingly similar to the Complainant's trademark BOURSORAMA.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. According to the *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#) concerning <croatiaairlines.com>, the Complainant is required to make out a *prima facie* case that the Respondent lacks

rights or legitimate interests. Once such *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 UDRP. The Complainant asserts that the Respondent is not identified in the Whois database as the disputed domain name. The Respondent is not known to the Complainant and is not affiliated with nor authorized by the Complainant in any way. The Complainant does not carry out any activity with, nor has any business with, the Respondent. Neither a license nor an authorization has been granted to the Respondent to make any use of the Complainant's trademark BOURSORAMA, or to apply for registration of the disputed domain name. The disputed domain name resolves to a login page spoofing the Complainant's official customer access. Consequently, it is used to illegally impersonate the Complainant and this any use of the disputed domain name by Respondent is illegitimate.

The domain name was registered and is being used in bad faith. The disputed domain name includes the well-known and distinctive trademark BOURSORAMA. Besides, the addition of the term "client" cannot be coincidental, as it directly refers to the Complainant's official customer access and misdirects web traffic by using a spoofed website. When Internet users type in their login details on the website in the erroneous assumption that this is an official website of the Complainant, there is a strong likelihood that the Respondent or any third parties will use this information for illegitimate activity like phishing and identity theft. Such misleading behavior is indicative of bad faith within the meaning of paragraph 4(b)(iv) of the Policy, on the part of the Respondent and use of a domain name to pass oneself off as a complainant in furtherance of a phishing scheme is evidence of bad faith registration and use under Policy 4(b)(iii) and (iv).

B. Respondent

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

6. Discussion and Findings

6.1. Procedural Issue – Language of the Proceeding

According to the information provided by the Registrar, the language of the Registration Agreement for the disputed domain name is Russian. Under paragraph 11(a) of the Rules, unless otherwise agreed by the Parties, or specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

The Complainant submitted its Complaint in English, and requests the proceeding to be held in English. The Center has sent all its relevant email communications to the Respondent in both English and Russian, and has invited the Respondent to express his views on the language of the proceeding. The Respondent has not responded to this invitation and has thus not objected to the Complainant's request that the proceeding be held in English. The disputed domain name incorporates the Complainant's trademark plus the term "client" in English.

The Panel therefore accepts the Complainant's language request based upon the reasons set forth above. The Panel also finds that it fair and procedurally efficient for English to be the language of the proceeding under the circumstances of this case.

6.2. Substantive Issues

The Panel has reviewed the Complaint, all supporting evidence, and the proceeding history as set forth in the record. The Panel notes that no response has been filed in this proceeding, and that the record supports a decision in the Complainant's favor.

A. Identical or Confusingly Similar

The disputed domain name wholly incorporates the Complainant's trademark, and adds the term "client" and the gTLD ".site", which do not affect the confusing similarity analysis. See *F5 Networks, Inc. v. Dennis Brooks*, WIPO Case No. [D2016-2476](#) concerning the domain name <f5-incorporated.com> wherein the term "incorporated" was discounted for analyzing confusing similarity, *ASOS PLC et al. v. Liu Bing*, WIPO Case No. [D2022-0604](#) (transferring the domain name <missselfridgeshop.com> because the term "shop" "does not prevent a finding of confusing similarity" with Complainant's MISS SELFRIDGE trademark); *Skorpio Ltd. v. Li Huaiqing*, WIPO Case No. [D2022-0538](#) (transferring the domain name <therickowenshop.com> because "shop" did not prevent a finding of confusing similarity between the disputed domain name and the trademark). In WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8, the issue is described as: "Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The nature of such additional term(s) may however bear on assessment of the second and third elements."

The Panel finds that the requirements of paragraph 4(a)(i) of the Policy have been satisfied.

B. Rights or Legitimate Interests

The record indicates that the Complainant has made an un rebutted *prima facie* case, and does not contain any evidence to indicate that the Respondent has any rights or legitimate interests in using Complainant's trademark in a domain name.

The Panel finds that the requirements of paragraph 4(a)(ii) of the Policy have been satisfied.

C. Registered and Used in Bad Faith

The fraudulent use of the disputed domain name (aimed at misleading clients of the Complainant), including a login page copying the Complainant's official customer access, using the Complainant's trademark BOURSORAMA to mislead consumers into believing that Respondent was sponsored by or connected with Complainant, is *prima facie* evidence of bad faith use and registration. See, e.g., *Ropes & Gray LLP v. Onso Onso*, WIPO Case No. [D2019-0822](#). As the panel stated: "Moreover, the use of the domain name to illegally spoof and phish existing clients of the Complainant into believing that they are authorized to receive funds on behalf of client is a violation of Policy, paragraph 4(b)(iv). *Caffitaly System S.p.A. v. WhoisGuard Protected, WhoisGuard, Inc. / Organization: Winsomgroup, Robert Hills*, WIPO Case No. [D2018-2804](#), and [WIPO Overview 3.0](#), section 3.1.4. In accordance with section 3.1.4 of [WIPO Overview 3.0](#), the use of a domain name for fraudulent activities is considered evidence of bad faith. This situation in this case is made worse by Respondent using the Arrow Logo of Complainant in addition to the trademark BOURSORAMA to increase confusion. The addition of the descriptive term "client" does not lessen confusion, but rather increases it.

Other WIPO UDRP panels have encountered similar fact patterns concerning the BOURSORAMA trademark. See *Boursorama S.A. v. Ivan Popov*, WIPO Case No. [D2022-1143](#). ("The Panel finds that the Complainant's BOURSORAMA trademark is inherently distinctive that it is most unlikely the Respondent might have registered the Disputed Domain Names without full knowledge of it. (See *Boursorama S.A. v. WhoisGuard, Inc. / Margaret Robinson*, WIPO Case No. [D2020-0083](#); *Boursorama S.A. v. Rachid Gormoz*, WIPO Case No. [D2020-2299](#); *Boursorama S.A. v. David Lopez*, WIPO Case No. [D2020-2546](#); *Boursorama SA v. Estrade Nicolas*, WIPO Case No. [D2017-1463](#))). Besides, the disputed domain name used to resolve to a login page mimicking the Complainant's official customer access. See *Boursorama S.A. v. Ivan Popov*, WIPO Case No. [D2022-1143](#). ("The use of the said Disputed Domain Name is calculated to attract Internet users to the site in the mistaken belief that they are visiting a site of or associated with the Complainant.) All of these panels found for the Complainant herein.

Moreover, the registration of a domain name that incorporates a widely known mark by an unaffiliated entity can by itself create a presumption of bad faith. See, e.g., *The Dow Chemical Company v. dowchemical eva_hwang@21cn.com +86.7508126859*, WIPO Case No. [D2008-1078](#) (finding <dowaychemical.com> registered in bad faith in view of the “widely known trademarks” of the complainant); see also *IDR Solutions Ltd. v. Whois Privacy Corp.*, WIPO Case No. [D2016-2156](#) (evidence of third party recognition of complainant’s JPEDAL mark supported conclusion that <jpedal.org> was registered in bad faith). As [WIPO Overview 3.0](#), section 3.1.4 states: “Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith.”

The Panel finds that the requirements of paragraph 4(a)(iii) of the Policy have been 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 <client-boursorama.site> be transferred to the Complainant.

/Clark W. Lackert/

Clark W. Lackert

Sole Panelist

Date: February 24, 2023