

Decision for dispute CAC-UDRP-103616

Case number	CAC-UDRP-103616
Time of filing	2021-03-03 09:17:15
Domain names	brs-investissement.com

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
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Complainant

Organization	BOURSORAMA SA
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Complainant representative

Organization	Nameshield (Laurent Becker)
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Respondent

Organization	BRS Investissement
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OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of different trademark registrations for "BOURSORAMA". In particular the Complainant owns:

French Registration for "BOURSORAMA" no. 98723359 registered on March 13, 1998 and duly renewed for classes 09, 16, 35, 36, 38 and 42; and

CTM Registration for "BOURSORAMA" no. 1758614 registered on October 19, 2001 and duly renewed for classes 09, 16, 35, 36, 38, 41 and 42.

The Complainant also owns a number of domain names, including the domain name <boursorama.com>, registered since March 1, 1998 which is identical with the company name of the Complainant. Especially his domain names <brsimg.com>, <bsourama.com> include the abbreviation "brs" in the domain names.

The disputed domain name <brs-investissement.com> was registered on February 2, 2021. The Complainant's marks and domains predate the registration of the disputed domain name.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

Founded in 1995, Boursorama, the Complainant, is one of the very first online financial platforms in Europe. One of the earliest of the emerging e-commerce providers, it enjoyed substantial growth due to its continuous expansion and grew into a pioneer and market leader in its three core businesses: online brokerage, financial information on the Internet and online banking. Today in France, Boursorama is the leading online banking provider.

The use of an abbreviation of the trademark does not in the circumstances of this case sufficiently distinguish the resulting domain name from the Complainant's trademark nor avoid confusing similarity between Complainant's trademark and the disputed domain name (see WIPO Case No. D2016-1452 ZB, N.A., dba Zions First National Bank and ZB, N.A., dba Amegy Bank v. Cameron David Jackson; see also Express Messenger Systems, Inc. v. Golden State Overnight, WIPO Case No. D2001-0063; and Dow Jones & Company, Inc. & Dow Jones LP v. T.S.E. Parts, WIPO Case No. D2001-0381; Philip Morris USA Inc. v. Steven Scully, J&S Auto Repair, WIPO Case No. D2015-1001).

The Respondent is using the disputed domain name <brs-investissement.com> to send emails seeking to mislead recipients as to the identity of the sender for its own commercial gain. Such conduct is deceptive, illegal, and in previous UDRP decisions has been found to be evidence of registration and use in bad faith, see The Coca-Cola Company v. Marcus Steiner, WIPO Case No. D2012-1804 ("the Panel concludes that the deliberate use of the Complainant's trade mark as part of the disputed domain name, is most likely intended to enable the Respondent to attract for commercial gain by email, consumers who are misled into providing their personal data. This would fall squarely within the type of circumstances to which the Policy refers."). The Complainant finds that the Respondent is using the disputed domain name <brs-investissement.com> in bad faith.

The Complainant assumes that the disputed domain name is confusingly similar to its registered trademark "BOURSORAMA" as the disputed domain name contains the Complainant's trademark in its entirety. The mere addition of the prefix "www" at the beginning of the disputed domain name does not alter the finding of similarity between the signs. In this perspective it should be considered that the Complainant also owns the domain name <boursorama.com>.

Furthermore, according with the Complainant's statement, the Respondent lacks rights or legitimate interest in the domain name in dispute since the Respondent is not affiliated with it nor authorized by it in any way and the Complainant does not carry out any activity for, nor has any business with, the Respondent. In addition, according to the Whois information connected to <wwwboursorama.com>, the Respondent is not commonly known with the terms Boursorama or Wwwboursorama.

The Complainant also contends that the website in relation with the domain name in dispute only displays an inactive page since its registration and that the incorporation of a famous mark into a domain name coupled with an inactive website may be evidence of bad faith registration and use.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is confusingly similar to his trademark or service mark in which the Complainant has rights.

The disputed domain name <brs-investissement.com> was registered on February 2, 2021. It is composed of three parts, an abbreviation "brs", a generic term "investissement" and a top-level domain name.

It is well-established that the top-level domain name ".com" should be disregarded for this purpose (see *Playboy Enterprises International, Inc. v. John Taxiarchos*, WIPO Case No. D2006-0561; *Burberry Limited v. Carlos Lim*, WIPO Case No. D2011-0344; *Magnum Piercing, Inc. v. The Mudjackers and Garwood S. Wilson, Sr.*, WIPO Case No. D2000-1525).

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

The generic term is a French word. The French term "investissement" ("investment" in English) refers to the Complainant's activity. For itself is the generic term not confusingly similar to the prior rights of the Complainant. Though, the first part, the abbreviation is determining.

The use of an abbreviation of the trademark "brs" does not in the circumstances of this case sufficiently distinguish the resulting domain name from the Complainant's trademark nor avoid confusing similarity between Complainant's trademark and the disputed domain name (see WIPO Case No. D2016-1452 ZB, N.A., dba Zions First National Bank and ZB, N.A., dba Amegy Bank v. Cameron David Jackson; see also *Express Messenger Systems, Inc. v. Golden State Overnight*, WIPO Case No. D2001-0063; and *Dow Jones & Company, Inc. & Dow Jones LP v. T.S.E. Parts*, WIPO Case No. D2001-0381; *Philip Morris USA Inc. v. Steven Scully, J&S Auto Repair*, WIPO Case No. D2015-1001).

The Respondent is using the disputed domain name <brs-investissement.com> to send emails seeking to mislead recipients as to the identity of the sender for its own commercial gain. The branch of the generic term "investissement" gets essential in combination with the abbreviation "brs". Such conduct is deceptive, illegal, and in previous UDRP decisions has been found to be evidence of registration and use in bad faith, see *The Coca-Cola Company v. Marcus Steiner*, WIPO Case No. D2012-1804 ("the Panel concludes that the deliberate use of the Complainant's trade mark as part of the disputed domain name, is most likely intended to enable the Respondent to attract for commercial gain by email, consumers who are misled into providing their personal data. This would fall squarely within the type of circumstances to which the Policy refers."). The Panel finds that the abbreviation "brs" in combination with "investissement" in the disputed domain name causes confusing similarity. Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

The Complainant provided prima facie evidence that the Respondent does not have rights or legitimate interests in respect of the disputed domain name as it is not commonly known under the disputed domain name and as the Respondent was never authorized or licensed or otherwise permitted by the Complainant to use the disputed domain name. The Respondent, in the absence of any response, has not shown any facts or elements to justify legitimate rights or interests in the disputed domain name. Therefore, on the basis of the evidences submitted and in the absence of a response the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name. Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

The disputed domain name redirects to a French content dedicated in banking investment. However, the disputed domain name was used by the Respondent to impersonate the Complainant for the purpose of attempted consumer fraud. The Complainant provided prima facie evidence that the Respondent has registered and used the disputed domain name in bad faith. Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **BRS-INVESTISSEMENT.COM:** Transferred

PANELLISTS

Name	Dr. jur. Harald von Herget
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DATE OF PANEL DECISION	2021-04-06
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Publish the Decision
