

Decision for dispute CAC-UDRP-103657

Case number	CAC-UDRP-103657
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Time of filing	2021-03-16 09:26:29
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Domain names	brs.contact
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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
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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 proved to own the EU trademark 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 proved to own the following domain names:

- <boursorama.com>;
- <brsimg.com>;
- <brsourama.com >;
- <brsp.app >.

FACTUAL BACKGROUND

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

The Complainant, BOURSORAMA S.A., is active in online brokerage, financial information on the Internet and online banking.

In France, BOURSORAMA is the online banking reference with over 2 million customers. The portal www.boursorama.com is the first national financial and economic information site and first French online banking platform.

The Complainant is the owner of several trademarks BOURSORAMA®, such as the European trademark n° 1758614 registered since 2001-10-19.

The Complainant also owns a number of domain names, including the same distinctive wording BOURSORAMA®, such as the domain name [<boursorama.com>](http://boursorama.com), registered since 1998-03-01 but also the domain names [<brsimg.com>](http://brsimg.com), [<brsourama.com>](http://brsourama.com) and [<brsp.app>](http://brsp.app).

The disputed domain name [<brs.contact>](http://brs.contact) was registered on February 26th, 2021 in the name of an organization called BRS, based in France.

[<brs.contact>](http://brs.contact) redirects to a “Joomla” website without content. However, the disputed domain name was used by the Respondent to impersonate the Complainant for the purpose of attempted consumer fraud by emails.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

As regards the First Element of the Policy, the Complainant supports that the disputed domain name is confusingly similar to its prior trademarks, BOURSORAMA. According to the Complainant's submission, [<brs.contact>](http://brs.contact) is an abbreviation of BOURSORAMA and as such it must be considered confusingly similar to the Complainant's trademark. The Complainant adds that the Respondent itself is using [<brs.contact>](http://brs.contact) in a way that could create confusion for the public.

As regards the Second Element of the Policy, the Complainant contends that there is no evidence that the Respondent was commonly known by the disputed domain name.

Furthermore, the Respondent used [<brs.contact>](http://brs.contact) to impersonate itself as the Complainant and such circumstance excludes any right/legitimate interests in registering or using the domain name for the purposes of the Second Element of the Policy.

As regards the Third Element of the Policy, the Complainant supports that the Respondent was aware of the BOURSORAMA trademark at the time of the registration of the disputed domain name.

Furthermore the Complainant claims that the disputed domain name was used in a phishing scheme.

Such circumstances confirm that [<brs.contact>](http://brs.contact) is used and registered in bad faith.

RESPONDENT:

No administrative response was 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

1. The disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

The Complainant owns the BOURSORAMA trademark which is used in the field of financial and online banking services. The Complainant also owns domain names composed by the "BRS" element (i.e. - <brsimg.com>; <brsourama.com >; <brsp.app >). In particular the domain name <brsourama.com> redirects to the Complainant's official platform www.boursorama.com.

The Panel observes that the disputed domain name is not composed by the word "investissement"; therefore the Complainant's allegations regarding such element will be disregarded.

That being said, the Panel takes the view that the threshold required by the First Element of the Policy is met. As a matter of fact the element "BRS" could indeed be considered as an abbreviation of the BOURSORAMA trademark as confirmed also by the registration and use by the Complainant of domain names composed by BRS (see - <brsimg.com>; <brsourama.com >; <brsp.app >).

The Panel considers of relevance also the way the disputed domain name is used. The Complainant has submitted evidence that the Respondent used <brs.contact> to impersonate itself as the Complainant (see Annex 6). In these documents, the Respondent refers to BOURSORAMA as BRS (i.e. "BOURSORAMA (BRS)") confirming that BRS could be perceived as an abbreviation of the Complainant's trademark.

As a consequence, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademarks, for the purposes of the First Element of the Policy.

2. The Respondent lacks rights or legitimate interests in the disputed domain name.

Pursuant to paragraph 4(a)(ii) of the Policy, the 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 demonstrating its 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.

In this case, the Panels finds that the Complainant's submitted evidence and allegations, to which the Respondent did not reply, are sufficient to establish a prima facie case of lack of rights and legitimate interests in the disputed domain name.

The fact that the Respondent's organization is named BRS is not sufficient, per se, to confer rights or legitimate interests in the domain name. For the purposes of the second element of the Policy, the Respondent must produce concrete and credible evidence in order to prove rights/legitimate interests in the domain name. For instance, in this case, the Respondent could have produced an extract of the local chamber of commerce attesting to the registration of the BRS company or other evidence that could prove an effective use of the BRS sign. As the Respondent failed to do so, the Panel will accept the Complainant's allegations.

Furthermore, the Complainant submitted evidence that <brs.contact> was used in a phishing scheme. According to the Panel, such use does not constitute a fair use or a legitimate non-commercial use for the purposes of the Policy.

For these reasons, the Panel takes the view that the Respondent lacks rights or legitimate interests in the disputed domain

name for the purposes of the Policy.

3. The disputed domain name was registered and is used in bad faith.

As regards registration in bad faith, the Panel agrees that the Respondent was aware of the BOURSORAMA trademark and the abbreviation BRS at the time of the registration of the disputed domain name. The evidence submitted as Annex 6 proves that the Respondent acted as the Complainant and contacted potential clients for commercial gain. In these documents the Respondent referred to BOURSORAMA and BRS; this proves that the Respondent itself considered BRS to be an abbreviation of the BOURSORAMA trademark.

As regards use in bad faith, the Panel notes that the disputed domain name resolves to an inactive website and is used in order to send emails to potential consumers. In these emails the Respondent uses the BOURSORAMA trademark, with the same graphics used in the Complainant's official website, in order to attract potential consumers for commercial gain. The Panel agrees that such use is an example of a phishing scheme which amounts to a use in bad faith of the domain name.

For these reasons, the Panels finds the evidence submitted as sufficient to prove use and registration in bad faith of the disputed domain name for the purposes 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.CONTACT**: Transferred

PANELLISTS

Name	Andrea Mascetti
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DATE OF PANEL DECISION	2021-04-18
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Publish the Decision