

Decision for dispute CAC-UDRP-103813

Case number	CAC-UDRP-103813
Time of filing	2021-05-24 09:26:47
Domain names	boursorama-dps2d.com, boursoramadsp2.com

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)
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Complainant

Organization	BOURSORAMA SA
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Complainant representative

Organization	Nameshield (Enora Millocheau)
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Respondent

Name	zack levy
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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 names.

IDENTIFICATION OF RIGHTS

The Complainant owns EU trademark with no. 01758614 BOURSORAMA for goods and services in classes 9, 16, 35, 36, 38, 41 and 42.

FACTUAL BACKGROUND

Facts asserted by the Complainant and not contested by the Respondent:

Founded in 1995, the Complainant is active in the field of e-commerce and continuously expands its range of financial products online in Europe and more notably in France where it has over 2.8 million customers for its online banking services.

The Complainant alleged that the disputed domain names are confusingly similar to its trademark BOURSORAMA as the disputed domain name includes the Complainant's BOURSORAMA trademark in its entirety, while "DPS2", representing "Directive on Services for Payment with 2 factors", the addition of a hyphen and the letter "D" not changing the overall impression of the designation.

The Complainant further asserted that the Respondent is not commonly known by a disputed domain names, and was neither licensed nor otherwise authorized by the Complainant to use its trademark BOURSORAMA as part of the disputed domain names. Further, the disputed domain names are not used in relation with a website and the Respondent did not make any use of disputed domain names since its registration, and the Respondent has no demonstrable plan to use the disputed domain names since its registration. Therefore the Respondent does not have any rights or legitimate interest in the disputed domain names.

The Complainant's trademark BOURSORAMA is well known and the Complainant contended that is therefore reasonable to infer that the Respondent has registered the disputed domain names with full knowledge of the Complainant's trademark BOURSORAMA. Moreover, the Complainant asserts that the addition of the term "DPS2" cannot be coincidental as it refers to secured payment, which is related to the Complainant's banking activities.

Also, the disputed domain name <boursorama-dps2d.com> is currently inactive and the disputed domain name <boursoramadsp2.com> resolves to an error page. The Complainant contends that the Respondent has not demonstrated any activity in respect of the disputed domain names, and it is not possible to conceive of any plausible actual or contemplated active use of the domain names by the Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant's rights under trademark law.

Finally, the disputed domain name <boursoramadsp2.com> has been set up with MX servers which suggests that it may be actively used for email purposes. This is also indicative of bad faith registration and use because the Complainant alleges that any e-mail emails originating from this disputed domain name could not be used for any good faith purpose. On these bases, the Complainant concludes that the Respondent has registered and is using the disputed domain names in bad faith.

PARTIES CONTENTIONS

No administratively compliant Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names are 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 names (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 names have been registered and are 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 Panel finds that the disputed domain names are confusingly similar to the Complainant's trademark BOURSORAMA, which has been taken in its entirety in the disputed domain names. The suffix "DPS2" represents "Directive on Services for Payment with 2 factors", which is the commonly used abbreviation and name, respectively, for Directive (EU) 2015/2366 of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No 1093/2010, and repealing Directive 2007/64/EC. This added abbreviation relates to the Complainant's banking activities and, as it is combined with the Complainant's well known trademark BOURSORAMA, does not take away the confusing similarity between the disputed domain names and the Complainant's trademark. The use of a

hyphen and an addition letter "D" to the term "DPS2" in the disputed domain name <boursorama-dps2d.com> are too insignificant to the overall impression.

2. The Panel finds that the Complainant successfully submitted prima facie evidence that the Respondent has made no use of, or demonstrable preparations to use, neither of the disputed domain names in connection with a bona fide offering of goods or services, nor is making a legitimate non-commercial or fair use of the disputed domain names, nor is the Respondent commonly known under the disputed domain names. This prima facie evidence was not challenged by the Respondent.

3. In the absence of a Response, the Panel infers that the Respondent had the Complainant's trademarks BOURSORAMA in mind when registering the disputed domain names, which were therefore registered and being (passively) used in bad faith, in order to take advantage of the Complainant's trademark.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BOURSORAMA-DPS2D.COM**: Transferred
2. **BOURSORAMADSP2.COM**: Transferred

PANELLISTS

Name	Alfred Meijboom
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DATE OF PANEL DECISION **2021-06-29**

Publish the Decision
