

Decision for dispute CAC-UDRP-104179

Case number	CAC-UDRP-104179
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Time of filing	2021-11-23 09:33:59
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Domain names	eolefinances.com
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Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
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Complainant

Organization	FINANCO
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Complainant representative

Organization	NAMESHIELD S.A.S.
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Respondent

Name	Aurel Sourou
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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 owns a number of registered trade marks including the name EOLE FINANCE, including the French word trade mark EOLE FINANCE, registration number 97689396, first registered on 29 July 1997, in international classes 35 and 36; and the French combined trade mark EOLE FINANCE DONNONS DE L'AVANCE A VOS PROJETS, registration number 3580275, first registered on 21 August 2019, in international classes 35 and 36.

Furthermore, the Complainant owns the top-level domain <eolefinance.com>, registered on 25 August 2004, which consists of the name EOLE FINANCE and is connected to the Complainant's official website.

FACTUAL BACKGROUND

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

The Complainant is FINANCO, a financial services company founded in 1986 and based in France, which specialises in consumer credit transactions. FINANCO is a subsidiary of a larger group, CRÉDIT MUTUEL ARKÉA. With 400 employees, FINANCO develops and distributes financial solutions tailored to individuals. FINANCO, under its brand EOLE FINANCE,

provides loans backed by employee savings.

The disputed domain name <eolefinances.com> was registered on 27 March 2021 and resolves to an active website written in French and offering loans and consumer credits.

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

With regard to the first UDRP element, the Panel finds that the disputed domain name <eolefinances.com> is confusingly similar to the Complainant's trade mark EOLE FINANCE. Indeed, the disputed domain name incorporates the Complainant's trade mark in its entirety, save that the disputed domain name adds the letter "S" to the Complainant's trade mark. The Panel considers this case to be a plain case of "typo-squatting", i.e., the disputed domain name contains an obvious misspelling of the Complainant's trade mark, which is not sufficient to alter the overall impression of the designation as being connected to the Complainant's trade mark. The addition of the letter "S" does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trade marks and associated domain names, in particular, because the addition of the letter "S" denotes the plural of the word "finance" in the French language. The Panel follows in this respect the view established by numerous other decisions: (1) that a domain name that wholly incorporates a Complainant's registered trademark may be sufficient to establish confusing similarity for purposes of the UDRP (for example, WIPO Case No. D2003-0888, Dr. Ing. h.c. F. Porsche AG -v- Vasiliy Terkin <porsche-autoparts.com>); and (2) that a domain name which consists of a common, obvious, or intentional misspelling of a trade mark is to be considered to be confusingly similar to the relevant trade mark (for example, CAC Case No. 103124, Boehringer Ingelheim Pharma GmbH & Co.KG -v- Fundacion Comercio Electronico <boehringeringelheimpetrreebates.com>; CAC Case No. 101990, JCDECAUX SA -v- Emma Purnell <jcdeceux.com>; CAC case No. 101892, JCDECAUX SA -v- Lab-Clean Inc <jcdacaux.com>; and WIPO Case No. D2005-0941, Bayerische Motoren Werke AG, Sauber Motorsport AG -v- Petaluma Auto Works <bmwsauberf1.com>).

With regard to the second UDRP element, the Complainant asserts that the Respondent is not affiliated with or related to the Complainant in any way and is neither licensed nor otherwise authorised to make any use of the Complainant's trade mark, or to apply for or use the disputed domain name, and there is no evidence before the Panel to suggest otherwise. The Panel further finds that the Whois information does not suggest that the Respondent is commonly known by the domain name <eolefinances.com> (for example, Forum Case No. FA 1781783, Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II -v- Chad Moston/Elite Media Group <bobsfromsketchers.com> ("Here, the WHOIS information of record identifies Respondent as "Chad Moston/Elite Media Group." The Panel therefore finds under Policy paragraph 4(c)(ii) that Respondent is not commonly known by the disputed domain name under Policy paragraph 4(c)(ii))).

Moreover, the website accessed via the disputed domain name <eolefinances.com> offers personal and consumer loans, which compete with the services provided by the Complainant. Past panels have held that using a disputed domain name to offer services that are related to those of the complainant is not a use indicative of rights or legitimate interests (for example, Forum Case No. FA 1659965, General Motors LLC -v- Mike Lee ("Past panels have decided that a respondent's use of a domain to sell products and/or services that compete directly with a complainant's business does not constitute a bona fide offering of goods or services pursuant to Policy paragraph 4(c)(i) or a legitimate non-commercial or fair use pursuant to Policy paragraph 4(c)(iii)"). The Panel notes in this context that the Complainant adduced evidence showing that the Respondent uses the Complainant's logo "EOLE FINANCE" in the "About us" page of his website, which demonstrates the Respondent's intention to pass himself off as the Complainant. The Panel further notes the decision in a similar case (CAC N° 103524, FINANCO -v- Euro Market Direct <financo.group> ("The disputed domain name has been used for competing services to those of the Complainant. This is not a bona fide offering of goods or services or a legitimate non-commercial or fair use under the Policy.")).

Finally, there is no indication that the Respondent is making any legitimate non-commercial or fair use of the disputed domain name. Against this background, and absent any response from the Respondent, or any other information indicating the contrary, the Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

With regard to the third UDRP element, the Complainant asserts that the Respondent uses the disputed domain name to promote competing services, and (as noted above) uses the Complainant's logo. Indeed, the disputed domain name redirects to a website providing financial services, such as consumer and personal loans, which compete with the services offered by the Complainant. The Panel accepts that using a domain name in order to offer competing services has often been held to disrupt the business of the owner of the relevant mark and to constitute bad faith (for example, Forum Case No. FA 768859, Instron Corporation -v- Andrew Kaner c/o Electromatic a/k/a Electromatic Equip't ("Complainant asserts that Respondent registered and is using the disputed domain names to disrupt Complainant's business, because Respondent is using the disputed domain names to operate a competing website. The Panel finds that Respondent has registered and used the disputed domain names in bad faith according to Policy paragraph 4(b)(iii)").

The Complainant further argues that, by using the domain name, the Respondent has intentionally attempted to attract, for commercial gain, internet users to its website by creating a likelihood of confusion with the Complainant's trade 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 in accordance with paragraph 4(b) (iv) of the Policy and refers to Forum Case No. 94864, Southern Exposure -v- Southern Exposure, Inc. ("The Respondent is using the domain name to attract Internet users to its website by creating confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Complainant's website. Policy paragraph 4(b)(iv). The Respondent registered and used the domain name in question to profit from the Complainant's mark by attracting Internet users to its competing website. This is evidence of bad faith"). The Panel surmises that the Respondent must clearly have been aware of the Complainant's trade mark and business since he is using the Complainant's logo on the website accessed through the disputed domain name. In any event, the Panel considers that, if the Respondent had carried out a Google search for the name EOLE FINANCE, the search results would have yielded immediate and obvious references to the Complainant. It is therefore reasonable to infer that the Respondent either knew, or should have known, that the disputed domain name would be identical with or confusingly similar to the Complainant's trade marks and that he registered the disputed domain name in full knowledge of the Complainant's trade marks.

Absent any response from the Respondent, or any other information indicating the contrary, the Panel therefore also accepts that the Respondent has registered and is using the disputed domain name in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **EOLEFINANCES.COM**: Transferred
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PANELLISTS

Name	Gregor Kleinknecht
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DATE OF PANEL DECISION	2022-01-07
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Publish the Decision
