

Decision for dispute CAC-UDRP-104429

Case number	CAC-UDRP-104429
Time of filing	2022-03-22 09:16:03
Domain names	boursorama-solution.com, boursorama-solutions.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 S.A.S.
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Respondent

Name	Patrick Dupond
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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 is the owner of the word trademark BOURSORAMA registered as EUTM (Reg. No. 1758614) since 19 October, 2001, in classes 9, 16, 35, 36, 38, 41, 42 (Nice Classification).

FACTUAL BACKGROUND

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

The Complainant, BOURSORAMA S.A. is a well-known online banking and financial information and services company in Europe. The portal www.boursorama.com is the first national financial and economic information site and first French online banking platform. In France, BOURSORAMA is the online banking reference with over 3,3 million customers. Its word trademark BOURSORAMA (Reg. No. 1758614) is registered as EUTM since 19 October, 2001, in classes 9, 16, 35, 36, 38, 41, 42 (Nice Classification). The Complainant also owns domain names <boursorama.com> (registered since 1 March 1998) and <boursoramabanque.com> (registered since 26 May 2005).

The Respondent is French subject Patrick Dupond from Paris. The Respondent registered the disputed domain names

<boursorama-solution.com> and <boursorama-solutions.com> on 14 March 2022. These domain names resolve to parking pages with commercial links.

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 Complainant, BOURSORAMA S.A. is a well-known online banking and financial information and services company. The portal www.boursorama.com is the first national financial and economic information site and first French online banking platform. In France, BOURSORAMA is the online banking reference with over 3,3 million customers. Its word trademark BOURSORAMA (Reg. No. 1758614) is registered as EUTM since 19 October, 2001, in classes 9, 16, 35, 36, 38, 41, 42 (Nice Classification). The Complainant also owns domain names <boursorama.com> (registered since 1 March 1998) and <boursoramabanque.com> (registered since 26 May 2005). Complainant's rights to BOURSORAMA trademark have been confirmed by many UDRP decisions, including previous CAC Cases (e.g. CAC Case No. 102278, BOURSORAMA v. yvette cristofoli, <boursorama-ecopret.com>; CAC Case No. 101844, BOURSORAMA SA v. likid french, <client-boursorama.net>; CAC Case No. 101629, BOURSORAMA SA v. MOHAMED le petit, <m-clients-boursorama.com>).

2. The Panel acknowledges that the Complainant presented prima facie evidence that the Respondent is not sponsored by or affiliated with Complainant in any way. Furthermore, Complainant has not licensed, authorized, or permitted Respondent to use Complainant's trademarks in any manner, including in domain names. The Respondent's name "Patrick Dupond" does not resemble the disputed domain names in any manner. Respondent's use of the disputed domain names does not constitute a bona fide offering of goods or services or a legitimate non-commercial or fair use (Policy Para. 4(c)).

3. The Panel agrees with the Complainant that the disputed domain names <boursorama-solution.com> and <boursorama-solutions.com> are confusingly similar to the Complainant's trademark BOURSORAMA. The adding of the generic word "solution" or plural form "solutions" does not change the fact that the disputed domain names and the registered trademark are confusingly similar as it does not change the overall impression of the designation as being connected to the Complainant's trademark and it does not prevent the likelihood of confusion between the disputed domain names and the Complainant, its trademark and domain names associated. On the contrary, the addition of the word "solution(s)" increases the likelihood of confusion with the Complainant's trademarks and activity, because "solution(s)" refers to the Complainant's activities and the provision of the Complainant's financial services. It is well established in the UDRP case-law that the addition of a generic term associated to a trademark does not create a new or different right to the mark or diminish confusing similarity (e.g. see WIPO

Case No. D2016-0239, LEGO Juris A/S v. Viktor Tkachev, Lego Town, <lego-town.com>; WIPO Case No. D2021-3735 <original-timberland.com>. Numerous UDRP panels have considered that the addition of other terms (whether descriptive, pejorative, meaningless or otherwise) to trademarks in a domain name is not sufficient to escape a finding of confusing similarity (see section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“WIPO Overview 3.0”).

4. As no administratively compliant response has been provided to the Panel and the prima facie evidence was not challenged by the Respondent, the Panel, having additional regard to the French residence of the Respondent (namely, Paris), concludes that the Respondent, when he registered the disputed domain names, meant nothing else except the Complainant's trademark BOURSORAMA and Complainant's famous French website <www.boursorama.com>. The evidence in this case show that the disputed domain names resolve to a parking page with commercial links. Past UDRP panels have found it is not a bona fide offering of goods or services or legitimate non-commercial or fair use (eg. see recent CAC Case No. 104185 <check-boursorama.com> „The Panel finds that by using the disputed domain name incorporating the Complainant's trademark in connection with a parking page containing links referring to the Complainant's business, the Respondent has intentionally attempted to attract Internet users to its website for commercial gain by creating a likelihood of confusion with the Complainant's trademark“). Accordingly, the Panel in this case finds that the disputed domain names were registered and used in bad faith (Policy Para. 4(b)(iv)).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BOURSORAMA-SOLUTION.COM**: Transferred
2. **BOURSORAMA-SOLUTIONS.COM**: Transferred

PANELLISTS

Name	dr. Darius Sauliūnas
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DATE OF PANEL DECISION	2022-04-27
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Publish the Decision
