

Decision for dispute CAC-UDRP-105427

Case number	CAC-UDRP-105427
Time of filing	2023-05-09 09:02:15
Domain names	boursorama-updatiss.com

Case administrator

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

Organization	BOURSORAMA
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Complainant representative

Organization	NAMESHIELD S.A.S.
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Respondent

Organization	Sahari Muti Inc
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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 has evidenced to be the registered owner of the following trademark relating to its company name and brand "Boursorama":

- Word mark BOURSORAMA, European Union Intellectual Property Organization (EUIPO), registration No.: 001758614, registration date: October 19, 2001, status: active.

Also, the Complainant has substantiated to own a number of domain names relating to its BOURSORAMA trademark, inter alia, since 1998 the domain name <boursorama.com> which redirects to the Complainant's main website at "www.boursorama.com", used to promote the Complainant's products and related services in the financial industry.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.

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 Panel finds that the disputed domain name is confusingly similar to the BOURSORAMA trademark in which the Complainant has rights. The disputed domain name incorporates the Complainant's BOURSORAMA trademark in its entirety, simply added by the generic term "updatis". Numerous UDRP panels have recognized that incorporating a trademark in its entirety can be sufficient to establish that the disputed domain name is at least confusingly similar to a registered trademark. Moreover, it has been held in many UDRP decisions and has meanwhile become a consensus view among UDRP panels that the mere addition of descriptive or other terms, such as e.g. the term "updatis", is not capable to dispel the confusing similarity arising from such entire incorporation of the Complainant's BOURSORAMA trademark in the disputed domain name.

Therefore, the Complainant has satisfied paragraph 4(a)(i) and, thus, the first element of the Policy.

Moreover, the Complainant contends, and the Respondent has not objected to these contentions, that the Respondent has neither made use, or demonstrable preparations to use, the disputed domain name in connection with a *bona fide* offering of goods or services, nor is the Respondent making a legitimate noncommercial or fair use of the disputed domain name, nor is the Respondent commonly known thereunder. The Respondent has not been authorized to use Complainant's BOURSORAMA trademark, either as a domain name or in any other way. Also, there is no reason to believe that the Respondent's name somehow corresponds with the disputed domain name and the Respondent does not appear to have any trademark rights associated with the term "Boursorama" whatsoever. Finally, the disputed domain name does not resolve to any relevant content on the Internet, but simply to a blank page referring to the domain name <eu.perjalanansuci.com> which may be qualified as a so-called "passive holding". However, many UDRP panels have recognized that the mere registration of a domain name, even one that is comprised of a confirmed dictionary word or phrase, may not of itself confer rights or legitimate interests in a disputed domain name. Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Therefore, the Complainant has also satisfied paragraph 4(a)(ii) and, thus, the second element of the Policy.

The Panel finally holds that the disputed domain name was registered and is being used by the Respondent in bad faith. The way in which the disputed domain name has been composed (e.g. comprising the Complainant's undisputedly well-known BOURSORAMA trademark in its entirety, simply added by the generic term "updatis") clearly indicates that the Respondent had knowledge of the Complainant's BOURSORAMA trademark at the time of the registration of the disputed domain name and leaves little, if no doubt that the disputed domain name aims at targeting this very trademark. Also, there is a consensus view among UDRP panelists that a passive holding of a disputed domain name may, in appropriate circumstances, be consistent with the finding of bad faith, in particular in circumstances in which, for example, (1) the Complainant's trademark is reputed and (2) there is no conceivable use that could be made of the disputed domain name and would not amount to an infringement of the complainant's trademark's rights. In the case at hand, in the absence of any other reasonable explanation as to why the Respondent should rely on the disputed domain name and given that the Respondent has brought forward nothing in substance relating to the intended use of the disputed domain name that would have allowed the Panel to hold for the Respondent, the Panel finds that the Respondent has registered and is making use of the disputed domain name in a manner which at least takes unjustified and unfair advantage of the Complainant's well-known BOURSORAMA

trademark and related reputation and must, therefore, be considered as registered and being used in bad faith within the meaning of the Policy.

Therefore, the Complainant has also satisfied paragraph 4(a)(iii) and, thus, the third element of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **boursorama-updatiss.com**: Transferred

PANELLISTS

Name	Stephanie Hartung
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DATE OF PANEL DECISION 2023-06-15

Publish the Decision