

## **ADMINISTRATIVE PANEL DECISION**

**Boursorama S.A. v. Aleena Ali, AleenaSolutions**

**Case No. D2023-1383**

### **1. The Parties**

The Complainant is Boursorama S.A., France, represented by Nameshield, France.

The Respondent is Aleena Ali, AleenaSolutions, United States of America.

### **2. The Domain Name and Registrar**

The disputed domain name <boursoramasoutienalerte.com> is registered with Nicenic International Group Co., Limited (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 30, 2023. On March 30, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 31, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Not Identified) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 3, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on April 4, 2023.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on April 17, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 7, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 8, 2023.

The Center appointed Alistair Payne as the sole panelist in this matter on May 10, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

#### 4. Factual Background

The Complainant, based in France, operates three core businesses, online brokerage, financial information on the Internet and online banking. It has over 4.7 million customers and its official website at “www.boursorama.com” was the first French online banking platform.

The Complainant owns European Union Trade mark registration 001758614 for BOURSORAMA which has been registered since October 19, 2001. The Complainant also owns a number of domain names, including the BOURSORAMA mark, in particular <boursorama.com>, which was registered on March 1, 1998.

The disputed domain name was registered on March 27, 2023, and redirected to the Complainant’s official website at “www.boursorama.com”.

#### 5. Parties’ Contentions

##### A. Complainant

The Complainant states that the disputed domain name is confusingly similar to its BOURSORAMA trade mark. It says that the disputed domain name incorporates its BOURSORAMA mark in its entirety and submits that the addition of the French generic term “soutien” (meaning “support”) and “alerte” (meaning “warning”) is not sufficient to prevent a finding of confusing similarity.

The Complainant asserts that the Respondent is not identified in the WhoIs database as the disputed domain name and that past panels have held that a Respondent was not commonly known by a disputed domain name if the WhoIs information was not similar to the disputed domain name.

The Complainant contends that the Respondent is not affiliated with, nor authorised by, the Complainant in any way. It says that the Respondent has no rights or legitimate interests in respect of the disputed domain name and that the Complainant does not carry out any activity for, nor does it have any business with, the Respondent. The Complainant submits that it has not granted any licence or authorisation to the Respondent to make use of the Complainant’s trade mark BOURSORAMA, or to apply for registration of the disputed domain name. Moreover, at the time of the filing of the Complainant, it says that the disputed domain name resolves to the Complainant’s official website at “www.boursorama.com” which it says represents neither a *bona fide* offering of goods or services, nor a legitimate noncommercial or fair use of it. Accordingly, contends the Complainant, the Respondent has no rights or legitimate interests in the disputed domain name.

With its 4.7 million customers, the Complainant asserts that it is the French online banking reference and that the disputed domain name includes the well-known and distinctive trade mark BOURSORAMA. It notes that at the time of the filing of the Complainant, the disputed domain name resolved to the Complainant’s official website “www.boursorama.com”. It says that on these facts and considering the distinctiveness of the Complainant’s trade marks and reputation, it is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainant’s trade mark rights. Moreover, says the Complainant, at the time of the filing of the Complainant, the disputed domain name resolved to the Complainant’s official website and based on these facts the Respondent must have had knowledge of the Complainant’s rights prior to the registration of the disputed domain name, which is a hallmark of bad faith.

Finally, the Complainant notes that the disputed domain name has been set up with MX records which it says means that the disputed domain name may be actively used for email purposes. This, says the Complainant, is also indicative of bad faith registration and use because no email emanating from the disputed domain name could be used for a good faith purpose.

## **B. Respondent**

The Respondent did not reply to the Complainant's contentions.

## **6. Discussion and Findings**

### **A. Identical or Confusingly Similar**

The Complainant has demonstrated that it owns European Union trade mark registration No. 001758614 for BOURSORAMA which was registered on October 19, 2001. The disputed domain name wholly incorporates the Complainant's BOURSORAMA trade mark and is therefore confusingly similar to it. The addition of the words "soutien" and "alerte" does not prevent a finding of confusing similarity.

Accordingly, the Panel finds that the Complaint succeeds under this element of the Policy.

### **B. Rights or Legitimate Interests**

The Complainant has submitted that the Respondent is neither affiliated with, nor authorised by, the Complainant in any way. It has asserted that the Respondent has no rights or legitimate interests in respect of the disputed domain name and that the Complainant does not carry out any activity for, nor does it have any business with, the Respondent. The Respondent has also submitted that it has not granted any licence or authorisation to the Respondent to make use of the Complainant's BOURSORAMA trade mark, or to apply for registration of the disputed domain name.

The Panel notes that at the time of the filing of the Complaint, the disputed domain name redirected to the Complainant's official website at "www.boursorama.com". Previous panels have found that the unauthorised use of a Complainant's trade mark in a disputed domain name to divert Internet users to the Complainant's own website does not amount to a *bona fide* offering of goods or service nor to a legitimate noncommercial or fair use. As further discussed under Part C below, it is most likely that the Respondent's intentions with regard to the disputed domain name are not legitimate.

In these circumstances, the Panel finds that the Complainant has made out a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent has failed to respond to or to rebut the Complainant's case, and the Panel finds that the Complaint also succeeds under this element of the Policy.

### **C. Registered and Used in Bad Faith**

The disputed domain name was registered on March 27, 2023, more than 20 years after the Complainant's European Union trade mark registration No. 001758614 for BOURSORAMA. The BOURSORAMA trade mark appears to be a coined term that is very distinctive for banking and financial services. Based on a very substantial online banking and financial services business this trade mark enjoys a very substantial reputation, particularly in France where it has millions of customers. Although the Respondent is based in the United States of America, the fact that it has redirected the disputed domain name to the Complainant's main website strongly suggests that it did not register the disputed domain name by coincidence and was well aware of the Complainant's trade mark and business at the date of its registration.

The Complainant operates several businesses, but in particular a retail on-line banking service with its main website at "www.boursorama.com". The Panel finds it very hard to believe that the Respondent would register the disputed domain name containing as it does the French words "soutien" (meaning "support") and "alerte" (meaning "warning") for legitimate purposes. Any Internet user who is aware of the Complainant's mark or business upon seeing the disputed domain name incorporating the BOURSORAMA mark would be likely to associate it with the Complainant and to assume that it is some kind of *bona fide* support website for the Complainant's banking and financial services business when this is not the case. The fact that the

disputed domain name redirected to the Complainant's own website only reinforces this false assumption and potentially falsely sensitises Internet users to the idea that the disputed domain name is indeed associated with the Complainant which is not legitimate use.

The Respondent's motivation for using the disputed domain name in this way is most likely to be fraudulent and the fact that the disputed domain name has been set up with MX records allowing it to be used for email purposes, and that the Respondent failed to explain its use, only reinforces the Panel's view in this regard.

The Panel therefore finds that the disputed domain name has both been registered and used in bad faith and that the Complaint also succeeds under this element of the Policy.

## **7. Decision**

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <boursoramasoutienalerte.com> be transferred to the Complainant.

*/Alistair Payne/*

**Alistair Payne**

Sole Panelist

Date: May 24, 2023