

## **ADMINISTRATIVE PANEL DECISION**

**BOURSORAMA v. Malik Tabet**

Case No. DME2024-0007

### **1. The Parties**

The Complainant is BOURSORAMA, France, represented by Nameshield, France.

The Respondent is Malik Tabet, France.

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

The disputed domain name <boursoramabanque.me> is registered with Porkbun LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 10, 2024. On September 10, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 11, 2024, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 11, 2024 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 September 11, 2024.

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 September 17, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 7, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 8, 2024.

The Center appointed Louis-Bernard Buchman as the sole panelist in this matter on October 9, 2024. 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 is a French bank, founded in 1995, now part of the Société Générale banking group. The Complainant is a pioneer and leader in France in its three core businesses of online brokerage, financial information on the Internet and online banking, with over six million customers.

The Complainant owns inter alia the French trademark BOURSORAMA, registered under No. 98723359 on March 13, 1998 and the European Union trademark BOURSORAMA, registered under No. 001758614 on October 19, 2001 (together hereinafter referred to as: “the Mark”).

The Complainant is the registrant of many domain names, including <boursorama.com>, registered since March 1, 1998 (which directs to its official website).

The Complainant’s official website is the top financial and economic information site and online banking platform in France.

The disputed domain name was registered on September 4, 2024.

The Complainant has submitted evidence that the website at the disputed domain name resolved to a parking page and is offered for sale. At the time of this decision, the disputed domain name still resolves to a parking page.

#### **5. Parties’ Contentions**

##### **A. Complainant**

- (i) The Complainant submits that the disputed domain name reproduces the Mark, in which the Complainant has rights, and is confusingly similar to the Mark insofar as the disputed domain name contains the Mark in its entirety followed by the French word for bank, such addition not being capable of dispelling the confusing similarity with the Mark which remains recognizable in the disputed domain name.
- (ii) The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. Furthermore, the Complainant contends that it never authorized the Respondent to use the Mark in any manner and that the Respondent never had any affiliation with the Complainant.
- (iii) The Complainant submits that the Respondent has registered and is using the disputed domain name in bad faith. The Complainant alleges that the Respondent had knowledge of the Mark when registering the disputed domain name.
- (iv) The Complainant submits that any plausible actual or contemplated use of the disputed domain name could only be illegitimate and that by creating confusion with the Mark, the Respondent is using the disputed domain name in bad faith.
- (v) The Complainant requests that the disputed domain name be transferred to the Complainant.

## **B. Respondent**

The Respondent did not reply to the Complainants' contentions.

## **6. Discussion and Findings**

### **6.1. Procedural Aspects - Failure to Respond**

Under the Rules, paragraphs 5(f) and 14(a), the effect of a failure to submit a formal response by the Respondent is that, in the absence of exceptional circumstances, the Panel shall proceed to a decision on the basis of the Complaint.

Under paragraph 4(a) of the Policy, it is the Complainant's burden to establish that all three of the required criteria for a transfer of the disputed domain name have been met, even in the absence of a formal response.

Under paragraph 14(b) of the Rules, the Panel is empowered to draw such inferences from the Respondent's failure to file a formal response as it considers appropriate under the circumstances.

In this case, the Panel finds that the Respondent has failed to rebut any of the reasonable factual assertions that are made and supported by evidence submitted by the Complainant.

In particular, by failing to respond, the Respondent has failed to offer the Panel any of the types of evidence set forth in paragraph 4(c) of the Policy or otherwise, from which the Panel might conclude that the Respondent has any rights or legitimate interests in the disputed domain name, such as making legitimate noncommercial or fair use of the disputed domain name.

Moreover, as discussed below, the Respondent has failed to provide any exculpatory information or reasoning that might have led the Panel to question the Complainant's arguments that the Respondent has acted in bad faith.

### **6.2. Requirements of paragraph 4(a) of the Policy**

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

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the Mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical or confusingly similar to the Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of another term here, such as "banque", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Finally, the Respondent chose to register the disputed domain name within the ".me" country-code Top Level Domain ("ccTLD").

It is well established that a ccTLD does not generally affect the assessment of a domain name for the purpose of determining identity or confusingly similarity.

The Panel finds the first element of the Policy has been established.

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

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Panel finds the second element of the Policy has been established.

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

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have found that the non-use of a domain name (including a blank or “coming soon” page) would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3.

Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Mark, as acknowledged by many UDRP decisions (see for instance, *Boursorama S.A. v. Laetitia Dramais, bourse pret immo*, WIPO Case No. [D2022-3936](#); *Boursorama S.A. v. Ibraci Links, Ibraci Links SAS*, WIPO Case No. [D2022-4646](#) and *Boursorama S.A. c. jijj conn, utyhf; poussin miss, poussin et michel vrlain, ndgnfd*, WIPO Case No. [D2023-1132](#)), the composition of the disputed domain name (which consists of the Complainant’s Mark entirely plus the term “banque” referring to the Complainant’s banking business in French), and the passive holding of the disputed domain name (resolving to a Registrar parked page), call for a finding of bad faith under the Policy.

Furthermore, many UDRP panels have held that bad faith use of a domain name by a respondent may result from the fact its good faith use is in no way plausible (see *Audi AG v. Hans Wolf*, WIPO Case No. [D2001-0148](#)). The Panel notes that in France where the Complainant is headquartered and where the Respondent appears to be located, banking is a highly regulated industry, and finds it is not possible to imagine any plausible future active use of the disputed domain name that would not be illegitimate, considering the specificity of the banking activity of the Complainant.

Finally, some UDRP panels have held that in certain circumstances, registrants of domain names have a duty to abstain from registering and using a domain name, which is either identical or confusingly similar to a prior trademark held by others and which would infringe upon or otherwise violate the rights of a third party. See Policy, paragraph 2(b); *Nike, Inc. v. Ben de Boer*, WIPO Case No. [D2000-1397](#); *Nuplex Industries Limited v. Nuplex*, WIPO Case No. [D2007-0078](#); *Mobile Communication Service Inc. v. WebReg, RN*, WIPO Case No. [D2005-1304](#); *BOUYGUES v. Chengzhang, Lu Ciagao*, WIPO Case No. [D2007-1325](#); *Media General Communications, Inc. v. Rarenames, WebReg*, WIPO Case No. [D2006-0964](#); and *mVisible Technologies, Inc. v. Navigation Catalyst Systems, Inc.*, WIPO Case No. [D2007-1141](#).

The Panel therefore finds that the Complainant has established the third 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 <boursoramabanque.me> be transferred to the Complainant.

*/Louis-Bernard Buchman/*

**Louis-Bernard Buchman**

Sole Panelist

Date: October 15, 2024