

## **ADMINISTRATIVE PANEL DECISION**

Boursorama S.A. v. Opusm  
Case No. D2023-4377

### **1. The Parties**

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

The Respondent is Opusm, Republic of Korea.

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

The disputed domain names <logoboursobank.com> and <web-boursobank.com> are registered with Amazon Registrar, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 23, 2023. On October 24, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On October 25, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names, which differed from the named Respondent (Identity Protection Service) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 26, 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 the same day.

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 October 27, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 16, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 19, 2023.

The Center appointed Ian Lowe as the sole panelist in this matter on November 22, 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 is a French company founded in 1995. Its three core businesses are online brokerage, financial information and Internet and online banking. The Complainant has over 5 million customers in France and was the first French online banking platform.

The Complainant is the proprietor of a number of registered trademarks comprising BOURSO including France trademark number 3009973 BOURSO registered on July 28, 2000. It is also the owner of several domain names in respect of the BOURSO trademark including <boursocom> registered on January 11, 2000.

Both the disputed domain names were registered on October 23, 2023 and at the time of preparation of the Complaint resolved to a webpage at <https://web-boursobank.com/>. The Complainant states that the content was a sophisticated website used to impersonate the Complainant via mobile networks. The Complainant exhibits a copy of a webpage at <web-boursobank.com> inviting the user to access their Boursorama banking area by entering the requested log in details.

The <logoboursobank.com> domain name currently resolves to a webpage warning that “attackers on logoboursobank.com may trick you into doing something dangerous like installing software or revealing your personal information (for example, passwords, phone numbers or credit cards).” The <web-boursobank.com> disputed domain name does not currently resolve to any active webpage.

#### **5. Parties’ Contentions**

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

The Complainant contends that the disputed domain names are confusingly similar to its BOURSO trademark (the “Mark”), that the Respondent has no rights or legitimate interests in respect of the disputed domain names, and that the Respondent registered and is using the disputed domain names in bad faith within the meaning of the Policy.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

For this Complaint to succeed in relation to the disputed domain names the Complainant must prove that:

- (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

##### **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 uncontested rights in the Mark, both by virtue of its trademark registration and as a result of the goodwill and reputation acquired through its use of the Mark over a number of years. Ignoring the generic Top-Level Domain (“gTLD”) “.com”, the disputed domain names comprise the entirety of the BOURSO mark together with the words, variously, “logo”, “bank” and “web”. In the Panel’s view, the addition of these words does not prevent a finding of confusing similarity between the disputed domain names and the Mark.

Accordingly, the disputed domain names are confusingly similar to the Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

## **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 that 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. Accordingly, 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.

The Complainant has made out a *prima facie* case that the Respondent could have no rights or legitimate interests in respect of the disputed domain names. The Respondent is not authorized by the Complainant to use the disputed domain names and there is no evidence that the Respondent is commonly known by the disputed domain names. The Respondent has not used the disputed domain names in connection with a *bona fide* offering of goods or services, but rather has used them for a website imitating the Complainant. The Panel is satisfied that the Respondent has set up the website with a view to confusing Internet users into believing that it was operated by or authorised by the Complainant and very likely to phish for personal information or for other fraudulent purposes. Such intent is reflected in the composition of the disputed domain names, which comprise the entirety of the Complainant’s Mark together with the word “bank”, clearly associating the disputed domain names with the Complainant. Such activity cannot possibly give rise to rights or legitimate interests.

The Respondent has chosen not to respond to the Complaint or to take any steps to counter the *prima facie* case established by the Complainant. In the circumstances, the Panel finds that the Respondent does not have any rights or legitimate interests in respect of the disputed domain names.

Based on the available evidence, the Panel finds that the second element of the Policy has been established.

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

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In light of the use of the Complainant’s Mark in the disputed domain names and the nature of the Respondent’s website, the Panel is in no doubt that the Respondent had the Complainant and its rights in the BOURSO mark in mind when it registered the disputed domain names. The Panel considers that the Respondent has registered and used the disputed domain names to deceive Internet users into believing that the disputed domain names are operated or authorized by the Complainant, and to attract Internet users

by creating a likelihood of confusion with the BOURSO mark, very likely with a view to phishing for personal information or other fraudulent purposes, and no doubt for commercial gain.

Panels have held that the use of a domain name for illegal activity such as phishing, distributing malware, and impersonation/passing off, as indicated in this case, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Having reviewed the evidence, the Panel finds that the Respondent's registration and use of the disputed domain names constitutes bad faith, and 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 names <logoboursobank.com and <web-boursobank.com> be transferred to the Complainant.

*/Ian Lowe/*

**Ian Lowe**

Sole Panelist

Date: December 6, 2023