

ADMINISTRATIVE PANEL DECISION

Boursorama v. Islam Apon
Case No. D2024-3641

1. The Parties

Complainant is Boursorama, France, represented by Nameshield, France.

Respondent is Islam Apon, Bangladesh.

2. The Domain Name and Registrar

The disputed domain name <boursobkclient.com> (“Domain Name”) is registered with GMO Internet, Inc. d/b/a Discount-Domain.com and Onamae.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 9, 2024. On September 9, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On September 10, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Whois Privacy Protection Service by onamae.com) and contact information in the Complaint. The Center sent an email communication to Complainant on September 16, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on September 16, 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 Respondent of the Complaint, and the proceedings commenced on September 24, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 14, 2024. The Respondent sent email communications to the Center on September 29, 2024, and September 30, 2024.

The Center appointed Marina Perraki as the sole panelist in this matter on October 18, 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

Complainant provides online brokerage, financial information on the Internet and online banking services, with over 6 million customers in France. Per Complaint, Complainant's portal at "www.boursorama.com" is the first national financial and economic information site and the first French online banking platform, with over 41.5 million visits each month. Complainant contends that it has been using the BOURSO sign since 1995 and has a significant reputation in France and abroad in connection with online financial services.

Complainant owns the international trademark registration No. 1757984, BOURSOBANK (figurative), registered on August 28, 2023, for goods and services in international classes 9, 16, 35, 36, 38, and 41. The Complainant also owns a number of domain names, including <boursobank.com> registered on November 23, 2005.

The Domain Name was registered on September 6, 2024, and at the time of filing of the Complaint, resolved to a website (the Website) mimicking that of Complainant, prominently displaying Complainant's trademark and purportedly offering financial services, while Email Exchange ("MX") servers had been configured.

Currently, the Domain Name leads to an inactive website.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

B. Respondent

The Respondent did not formally reply to Complainant's contentions. On September 29, 2024, and September 30, 2024, Respondent sent email communications to the Center stating that they are acting on behalf of "the original registrant" and that they had been instructed by their client to delete the Domain Name, stating also their assumption that the Center may proceed to the deletion of the Domain Name or transfer to Complainant.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

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

Preliminary Issue – Respondent Identity

On September 29, 2024, and September 30, 2024, Respondent sent email communications to the Center stating that it is a reseller, and the original registrant of the Domain Name is a separate party. Respondent also stated that it forwarded the case correspondence to the original registrant of the Domain Name and that the original registrant has informed Respondent that they have submitted a deletion request for the Domain Name.

Given that the named Respondent, per the registrant and contact information disclosed by the Registrar, is listed as the registrant of the disputed domain name and that the supposedly underlying registrant did not send any communications to the Center, in these circumstances, the Panel finds that “Islam Apon” is the Respondent as the holder of the disputed domain name registration (see paragraph 1 of the Rules).

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 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 Panel finds the mark is recognizable within the Domain Name. Its dominant part BOURSO is entirely reproduced in the Domain Name along with the elements “bk” and “client”. Accordingly, the Domain Name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms “bk” and “client” may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the Domain Name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The generic Top-Level Domain (“gTLD”) “.com” is disregarded, as gTLDs typically do not form part of the comparison on the grounds that they are required for technical reasons (*Rexel Developpements SAS v. Zhan Yequn*, WIPO Case No. [D2017-0275](#); and *Hay & Robertson International Licensing AG v. C. J. Lovik*, WIPO Case No. [D2002-0122](#)). [WIPO Overview 3.0](#), section 1.11.1.

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 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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the Domain Name. The Respondent has not rebutted

Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Name such as those enumerated in the Policy or otherwise.

Prior to the notice of the dispute, Respondent did not demonstrate any use of the Domain Name or a trademark corresponding to the Domain Name in connection with a bona fide offering of goods or services.

On the contrary, as Complainant demonstrated, the Domain Name resolved to the Website, which featured Complainant's trademark and suggested falsely that it was that of Complainant or an affiliated entity or an authorized partner of Complainant.

Per Complaint, Respondent is not an affiliated entity or an authorised distributor or reseller of Complainant and no agreement, express or otherwise, exists allowing the use of Complainant's trademarks on the Website and the use of the Domain Name by Respondent.

Panels have held that the use of a domain name for illegitimate activity here, claimed impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel finds 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.

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.

The Panel concludes that Respondent has registered and used the Domain Name in bad faith. Because the BOURSOBANK mark had been used and registered at the time of the Domain Name registration by Respondent, the Panel finds it more likely than not that Respondent had Complainant's mark in mind when registering the Domain Name (*Tudor Games, Inc. v. Domain Hostmaster, Customer ID No. 09382953107339 dba Whois Privacy Services Pty Ltd / Domain Administrator, Vertical Axis Inc.*, WIPO Case No. [D2014-1754](#); *Parfums Christian Dior v. Javier Garcia Quintas and Christiandior.net*, WIPO Case No. [D2000-0226](#)). This also takes into account the content of the Website which mimicked that of Complainant.

As regards bad faith use of the Domain Name, Complainant has demonstrated that the Domain Name was used to resolve to the Website, which mimicked that of Complainant and prominently displayed Complainant's registered trademark, thereby giving the false impression that it was operated by Complainant, or a company affiliated to Complainant or an authorised partner of Complainant. The Domain Name was therefore used to intentionally create a likelihood of confusion with Complainant's trademark and business as to the source, sponsorship, affiliation, or endorsement of the website it resolves to. This can be used in support of bad faith registration and use (*Booking.com BV v. Chen Guo Long*, WIPO Case No. [D2017-0311](#); *Ebel International Limited v. Alan Brashear*, WIPO Case No. [D2017-0001](#); *Walgreen Co. v. Muhammad Azeem / Wang Zheng, Nicenic International Group Co., Limited*, WIPO Case No. [D2016-1607](#); *Oculus VR, LLC v. Sean Lin*, WIPO Case No. [DCO2016-0034](#); and [WIPO Overview 3.0](#), section 3.1.4).

Panels have held that the use of a domain name for illegitimate activity, here, claimed impersonation/passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds Respondent's registration and use of the Domain Name constitutes bad faith under the Policy.

Furthermore, Panels have found that the non-use of a domain 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 Complainant's trademark, and the composition of the Domain

Name, fully incorporating its most significant part BOURSO and finds that in the circumstances of this case the current passive holding of the Domain Name does not prevent a finding of bad faith under the Policy.

The Panel finds that 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 Domain Name <boursobkclient.com> be transferred to Complainant.

/Marina Perraki/

Marina Perraki

Sole Panelist

Date: November 1, 2024