

## **ADMINISTRATIVE PANEL DECISION**

Boursorama v. Tobias Lokven

Case No. DCC2024-0015

### **1. The Parties**

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

Respondent is Tobias Lokven, Azerbaijan.

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

The disputed domain name <boursogroup.cc> is registered with NameSilo, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 4, 2024. On June 4, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 4, 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 named Respondent (Domain Administrator, See PrivacyGuardian.org) and contact information in the Complaint. The Center sent an email communication to Complainant on June 5, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended to the Complaint on June 5, 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 June 7, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 27, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on June 28, 2024.

The Center appointed Gabriel F. Leonardos as the sole panelist in this matter on July 2, 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 is a French company specialized in financial services, particularly well-known for its online banking and investment solutions. Founded in 1995, it has gained prominence for providing easy access to a variety of financial products, including bank accounts, stock investments, and mutual funds.

The company also offers real-time financial information and market analysis. Its digital platform and focus on technology have made it a popular choice among investors and consumers in France and throughout Europe. In France, Complainant is an online banking reference with over 6 million customers.

Complainant is the owner of trademark registrations for the BOURSO trademark, and operates some domain names, such as <boursorama.com>, registered since March 1, 1998, and <boursos.com>, registered since January 11, 2000.

Some examples of Complainant's trademark registrations for BOURSO can be found below:

Registration No.	Trademark	Jurisdictions	International Class	Registration Date
3009973	BOURSO	France	9, 35, 36, 38, 41, 42	February 22, 2000
001758614	BOURSORAMA	European Union	9, 16, 35, 36, 38, 41, 42	October 19, 2001
1757984	BOURSOBANK	Austria, Benelux Office for Intellectual Property, Bulgaria, Cyprus, Czech Republic, Estonia, Finland, Germany, Greece, Spain, Hungary, Ireland, Italy, Latvia, Lithuania, Poland, Portugal, Romania, Slovenia, Slovakia, Sweden	9, 16, 35, 36, 38, 41	August 28, 2023

The disputed domain name was registered on May 31, 2024, and does not resolve to an active website.

#### 5. Parties' Contentions

##### A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, Complainant contends that the disputed domain name is confusingly similar to the registered trademark BOURSO, as well as with Complainant's domain names, since it fully incorporates Complainant's trademark BOURSO, with the sole addition of the terminology "group" and the country code Top-Level Domain ("ccTLD") ".cc".

Therefore, according to Complainant, the disputed domain name is confusingly similar with Complainant's trademark BOURSO, fulfilling paragraph 4(a)(i) of the Policy and paragraphs 3(b)(viii) and (b)(ix)(1) of the Rules.

Moreover, relying on the notion that Whois information is crucial for establishing ownership and identity in domain name disputes, Complainant states that Respondent is not identified in the Whois database as the disputed domain name.

Further, Complainant contends that Respondent is not affiliated with Complainant and that no business or activities are conducted between them. Additionally, Complainant states that no license or authorization has been given for the use of the trademark BOURSO or for the registration of the disputed domain name by Respondent.

In this manner, Complainant states that no legitimate use of the disputed domain name could be reasonably claimed by Respondent, thus paragraph 4(a)(ii) of the Policy has been fulfilled.

Complaint asserts that the trademark BOURSO is well-known and that most results of a search on the terms "Bourso Group" refer to Complainant. Thus, Complainant argues that it is reasonable to infer that Respondent has registered the disputed domain name with full knowledge of Complainant's trademarks.

Finally, Complainant emphasizes that the disputed domain name resolves to an inactive page.

Consequently, Complainant argues that Respondent has shown no activity regarding the disputed domain name, and any conceivable active use would likely constitute illegitimate actions such as passing off, violating consumer protection laws, or infringing on the Complainant's trademark rights. Also, Complainant alleges that MX servers are configured, suggesting that the disputed domain name may be actively used for email purposes.

Thus, according to Complainant, the requirements for the identification of a bad faith registration and use of the disputed domain name have been fulfilled, pursuant to paragraph 4(a)(iii) of the Policy.

Accordingly, Complainant requests transfer of the disputed domain name to Complainant.

## **B. Respondent**

Respondent did not reply to Complainant's contentions.

## **6. Discussion and Findings**

To succeed in a UDRP complaint, Complainant must demonstrate that all the elements listed in paragraph 4(a) of the Policy have been satisfied, as following:

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

The burden of proving these elements is upon Complainant.

Respondent had 20 days to submit a response in accordance with paragraph 5(a) of the Rules and failed to do so. Paragraph 5(f) of the Rules establishes that if a respondent does not respond to a complaint, in the absence of exceptional circumstances, the panel's decision shall be based upon the complaint.

## **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.

Based on the available record, the Panel finds 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 trademark BOURSO is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds that the disputed domain name is confusingly similar to Complainant's trademark BOURSO, with the sole addition of the word "group", which does not prevent a finding of confusing similarity between the disputed domain name and Complainant's trademark.

The disputed domain name consists also of the ccTLD ".cc". The applicable ccTLD in a domain name, such as ".cc" in this case, is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, 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 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 respondent. As such, where a complainant makes out a prima facie case that respondent lacks rights or legitimate interests, the burden of production on this element shifts to 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 respondent fails to come forward with such relevant evidence, 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 disputed domain name. 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 disputed domain name such as those enumerated in the Policy or otherwise.

Moreover, the composition of the disputed domain name itself carries a risk of implied affiliation to Complainant, and as such, cannot constitute fair use. [WIPO Overview 3.0](#), section 2.5.1.

Based on the available record, Respondent is not entitled to any trademark, trade name, or any other rights associated with the disputed domain name. Additionally, Respondent has not been authorized by Complainant to use the BOURSO trademark, and there is no commercial relationship between the Parties. Respondent is not recognized by the disputed domain name. In light of these circumstances, the Panel finds that no rights or legitimate interests can be found on behalf of Respondent,

Based on the available record, 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.

In the present case, the Panel notes that Respondent has registered the disputed domain name that is confusingly similar to Complainant's trademark BOURSO, as explained above in section 6.A. Also, based on the available record, Respondent has no affiliation with the BOURSO trademark, nor has it sought authorization or a license to utilize the BOURSO trademark. Respondent does not own any trademarks containing the term "boursor".

Furthermore, considering Complainant's reputation in France and abroad in connection with online financial services, Respondent evidently knew or should have known of the existence of Complainant's prior trademark rights and domain names, which were matters of public record, before registering the disputed domain name. Therefore, it may be inferred that the registration of the disputed domain name was intentionally done with the aim of later offering it to Complainant or otherwise profiting from the reputation of the BOURSO trademark.

The disputed domain name does not resolve to an active website. Panels have found that the non-use of a domain name does not prevent a finding of bad faith. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness of Complainant's trademark BOURSO and composition of the disputed domain name implying an affiliation with Complainant, the failure of Respondent to submit a response, Respondent's concealing of its identity through a privacy protection service, and the implausibility of any good faith use to which the inherently-misleading disputed domain name may be put, and finds that in the circumstances of this case the current passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy. Moreover, noting, inter alia, Complainant's reputation for the offering of online financial services and the creation of MX servers associated with the disputed domain name, there is a significant risk that the disputed domain name has been or could be used to send fraudulent financial phishing communications.

Based on the available record, 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 disputed domain name <boursogroup.cc> be transferred to Complainant.

*/Gabriel F. Leonardos/*

**Gabriel F. Leonardos**

Sole Panelist

Date: July 16, 2024