Decision for dispute CAC-UDRP-107153

Case number	CAC-UDRP-107153
Time of filing	2024-12-12 14:02:40
Domain names	boursobk.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	BOURSORAMA

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	Alain Ducret

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant founded in 1998, is a subsidiary of the Société Générale group, with its main seat in Boulogne-Billancourt, France. The Complainant is one of the most important players in digital banking in Europe, a pioneer and leader in: online banking and economic and financial information online. The Complainant with over 6 million customers, leads the ranking of digital banks, and 'www.boursorama.com' registered in 1998, is the number one financial portal in France.

The Complainant owns the following Trademarks:

- French Trademark for BOURSO (word mark), Reg. No. 3009973, in International Classes (ICs) 9, 35, 36, 38, 41, 42, registered on February 22, 2000, and in force until February 22, 2030.

- European Trademark for BOURSORAMA (word mark), Reg. No. 001758614, in ICs 9, 16, 35, 36, 38, 41, 42, registered on October 19, 2001, and in force until July 13, 2030.

The disputed domain name <**boursobk.com**> was registered on **August 29, 2024**. The disputed domain name resolved to a website with pay-per-click ("PPC") with links related to the Complainant's business activity and it has been used for phishing scheme. By the time of this Decision, resolves to an inactive website with no content on it.

FACTUAL BACKGROUND

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The Complainant states that is a pioneer and leader in three core businesses such as online brokerage, financial information on the Internet, and online banking, which operates under the name of BOURSORAMA; in France, is the online banking reference with over 6 million customers; that the portal www.boursorama.com is the first national financial and economic information site and first French online banking platform.

The Complainant also owns the following domain names: <boursorama.com>, registered since March 1, 1998; <bourso.com>, registered since January 11, 2000, and <boursoramabank.com> registered since May 26, 2005.

According to the evidence submitted before the Panel, the disputed domain name <**boursobk.com**> was registered on **August 29, 2024**; and by December 10, 2024, resolved to a PPC page with links related to the Complainant's business activity. The disputed domain name has been used in a phishing scheme. By the time of this Decision, the disputed domain name resolves to an inactive website with no content on it.

PARTIES CONTENTIONS

No Response or any kind of communication has been submitted by the Respondent. However, the Complainant must establish the three elements of paragraph 4(a) of the Policy (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("WIPO Overview 3.0"), section 4.3.)

Therefore, this Panel shall analyze the evidence submitted by the Complainant and decide this dispute under the "balance of probabilities" or "preponderance of the evidence" standard (see paragraphs 14 and 15(a) of the Rules, and WIPO Overview 3.0, section 4.2.)

Complainant´s Contentions:

- The Complainant asserts that the disputed domain name is confusingly similar to its trademark BOURSO; which includes the trademark BOURSO in its entirety; that the addition of the letters "BK" which is a common abbreviation of the term "BANK", is not sufficient to escape the finding of being confusingly similar to the Complainant's trademark BOURSO.

- The Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name since it is not known as the disputed domain name, citing Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group, NAF Case No. FA 1781783, where the WhoIs information differs from the respondent, as in this case.

- The Complainant asserts that the Respondent is not affiliated with nor authorized by the Complainant in any way; that the Complainant does not carry out any activity for, nor has any business with the Respondent; that neither license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark BOURSO or apply for registration of the disputed domain name.

- The Complainant asserts that the disputed domain name resolves to a parking page with commercial links (or in this case a "PPC"), and that has been used in a phishing scheme, which does not constitute a bona fide offering of goods or services, nor a non-commercial or fair use according to 4(c)(i) and 4(c)(iii) of the Policy.

- The Complainant contends that the disputed domain name is confusingly similar to its well-known trademark BOURSORAMA; that then, it is reasonable to infer that the Respondent registered the disputed domain name with full knowledge of the Complainant's trademark. The Complainant contends that the use of the disputed domain name, which pointed to a parking page with commercial links, and additionally used for a phishing scheme, falls into paragraph 4(b)(iv) and 4(b)(iii) of the Policy, respectively.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

Identical or Confusingly Similar

Regarding the first element of the Policy, the Complainant has proved before the Panel, that owns trademark Rights over the term BOURSO since February 22, 2000 (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("WIPO Overview 3.0"), section 1.2.1.)

The disputed domain name <**boursobk.com**> registered on **August 29, 2024**, clearly includes the trademark BOURSO, in addition to the letters "BK", perceived also by this Panel as an abbreviation of the term "BANK", which do not prevent a finding of confusing similarity under the first element of the Policy (see WIPO Overview 3.0, section 1.8; Boursorama S.A. v. Pia Gloger, CAC Case No. UDRP-106409).

It is well established that for the analysis of the first element of the Policy, in this case, the gTLD ".com", is considered "as a standard registration requirement and as such is disregarded under the first element confusing similarity test" (see WIPO Overview 3.0, section 1.11.1).

Therefore, the Panel finds that the disputed domain name <**boursobk.com**> is confusingly similar to the Complainant's trademark BOURSO.

Rights or Legitimate Interests

Regarding the second element of the Policy, and having reviewed the evidence submitted, to this Panel it is clear that:

(1) the Respondent's ultimate use of the disputed domain name is far to be considered in connection with a bona fide offering of goods or services and/or a legitimate noncommercial or fair use; here, in this case, the Respondent has selected the Complainant's trademark to incur in such as illegal activity as phishing. Multiple UDRP panels have already agreed that "phishing can never confer rights or legitimate interests on a respondent" (see WIPO Overview 3.0, section 2.13.1).

(2) there is no evidence that the Respondent corresponds to or has become commonly known by the term "boursobk.com".

(3) the Respondent is not affiliated with nor authorized by the Complainant in any way; neither carry out any activity for nor has the Complainant any business with the Respondent; any license or authorization has been granted to the Respondent to make any use of the Complainant's trademark BOURSO or apply for its registration as a domain name.

According to the evidence submitted before this Panel, the Complainant has made out its prima facie case and the Respondent did not submit any response or any communication during the entire proceeding rebutting the Complainant's arguments.

Therefore, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Bad Faith: Registration and Use

Regarding the third element of the Policy, this Panel analyses the following:

The Panel notes that previous UDRP panels have recognized the widely known reputation of the Complainant's trademarks BOURSO and BOURSORAMA (see Boursorama v. Pia Gloger, CAC Case No. UDRP- 106409; Boursorama v. Thobias Lokven, CAC Case No. 106589; BOURSORAMA contre Sacha Bismuth, Litige No. D2024-4354).

The Complainant's trademark rights significantly predate (by more than 20 years) the registration of the disputed domain name, being August 29, 2024, giving with it, an extraordinary amount of time to "teach" the Respondent about the Complainant's business activity and trademarks value.

Additionally, given the nature of the disputed domain name, meaning "well-known trademark + bk", to ultimately incur in phishing activity, to this Panel, all of it, is sufficient to determine bad faith registration.

Besides the PPC use with clear commercial-related links, the Complainant has provided consistent evidence concerning the Respondent´s use of the disputed domain name to incur in illegitimate activity such as phishing. Despite that by the time of this Decision, the disputed domain name points to an inactive website, such fact, does not save the Respondent, on the contrary, emphasizes the Respondent's bad faith under the Policy (see WIPO Overview 3.0, section 3.1.4).

As established by multiple UDRP panels, the non-use of a disputed domain name falls into the Passive Holding Doctrine (see WIPO Overview 3.0, section 3.3.; Boursorama v. Islam Apon, WIPO Case No. D2024-3641).

Therefore, the Panel finds that the disputed domain name has been registered and is being used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **boursobk.com**: Transferred

PANELLISTS

Name	**María Alejandra López García**

DATE OF PANEL DECISION 2025-01-07

Publish the Decision