Decision for dispute CAC-UDRP-107836

Case number	CAC-UDRP-107836
Time of filing	2025-08-08 09:30:25
Domain names	boursobank-notify.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	BOURSORAMA

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Organization	leconte dandin francine

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 has demonstrated ownership of rights in the trademark BOURSOBANK for the purposes of standing to file a UDRP complaint.

In particular, the Complainant is the owner of trademark registrations for BOURSOBANK, including the following:

- International trademark registration No. 1757984 for BOURSOBANK (word/device), registered on August 28, 2023.

The Complainant also refers to ownership over the number of domain names that incorporate its BOURSOBANK trademark, such as <boursobank.com>, registered on November 23, 2005.

FACTUAL BACKGROUND

The Complainant, operating under the name BOURSOBANK, is a French company that provides services in the field of online brokerage, financial information on the Internet and online banking. In France alone, the Complainant has nearly 8 million customers. The Complainant operates a portal on the website www.boursorama.com, which also contains an online banking platform.

The disputed domain name was registered on August 5, 2025 and it does not resolve to any active website. Additionally, email exchange (“MX”) records are configured on the disputed domain name.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it. In particular, the Complainant argues that the disputed domain name is confusingly similar to its BOURSOBANK trademark as this trademark is contained in its entirety within the disputed domain name. Further, the Complainant contends that the addition of the word “notify” is not sufficient to avoid the likelihood of confusion and that the .com" TLD is viewed as a standard registration requirement and as such should be disregarded.

Regarding the second UDRP element, the Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name and it is not related in any way with the Complainant. Neither license nor authorization has been granted to the Respondent to make any use of the Complainant’s trademark, or to apply for registration of the disputed domain name by the Complainant. The Respondent is also not known by the disputed domain name. Finally, The Complainant contends that the Respondent did not use the disputed domain name or has no demonstrable plan to use the disputed domain name.

With respect to the third UDRP element, the Complainant holds that its BOURSOBANK trademark has a significant reputation in France and abroad in connection with online financial services and that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademark. Although the disputed domain name resolves to an inactive page, such inactivity should not prevent a finding of bad faith in accordance with the passive holding doctrine. Finally, the disputed domain name has been set up with MX records, which suggests that it may be actively used for email purposes.

No administratively compliant Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or 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

According to paragraph 15(a) of the Rules: "A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable." Paragraph 4(a) of the Policy stipulates that the complainant must prove each of the following:

1. that the disputed domain name registered by the respondent is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
2. that the respondent has no rights or legitimate interests in respect of the disputed domain name; and
3. that the disputed domain name has been registered and is being used in bad faith.

I 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, as stipulated in section 1.7 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("WIPO Overview 3.0").

The Complainant has shown rights in respect of the BOURSOBANK trademark for the purposes of the Policy (WIPO Overview 3.0, section 1.2.1). Although the Complainant has based its complaint on a word/device trademark i.e., a trademark with design elements, the Panel holds that such design elements do not comprise the dominant portion of the relevant trademark such that they effectively overtake the textual elements in prominence. Therefore, such design elements can be disregarded for purposes of assessing identity or confusing similarity under the first element and the panel will only take into account the verbal element BOURSOBANK for the purpose of the comparison between the disputed domain name and the Complainant's trademark (WIPO Overview 3.0, section 1.10).

The entirety of the Complainant's trademark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the Complainant's trademark for the purposes of the Policy (WIPO Overview 3.0, section 1.7).

Although the addition of other terms, here "notify", may bear on the assessment of the second and third elements, the Panel finds the addition of such a term does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark for the purposes of the Policy (WIPO Overview 3.0, section 1.8).

In addition, it is well established that ".com", as a generic Top-Level Domain, can be disregarded in the assessment of the confusing similarity between the disputed domain name and the Complainant's trademark (WIPO Overview 3.0, section 1.11.1).

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

II 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.

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.

In particular, the Panel notes that there appears to be no relationship between the Respondent and the Complainant and that the Respondent is not a licensee of the Complainant, nor has the Respondent otherwise obtained an authorization to use the Complainant's BOURSOBANK trademark. There appears to be no element from which the Panel could infer the Respondent's rights and legitimate interests in the disputed domain name, or that the Respondent might be commonly known by the disputed domain name.

The Panel also finds that the structure of the disputed domain name, which contains the Complainant's BOURSOBANK trademark in combination with the term "notify", carries a high risk of implied affiliation (see WIPO Overview 3.0, section 2.5.1). The word "notify", albeit being a common dictionary term, also corresponds to the Complainant's field of business, having in mind that the bank customers often receive notifications on various transactions and other banking activities.

Having in mind the above, the Panel finds the second element of the Policy has been established.

III 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).

In the present case, the Panel notes that the Respondent must have been aware of the Complainant and its BOURSOBANK trademark, especially having in mind the structure of the disputed domain name. It is, therefore, highly unlikely that the Respondent decided to register a domain name containing this trademark in its entirety without having the Complainant in mind when doing so.

Also, the choice of additional word "notify" that corresponds to the Complainant's field of business, further indicates that the Respondent was aware of the Complainant and its activities and had the Complainant and its BOURSOBANK trademark in mind when registering the disputed domain name.

Due to the above, the Panel finds that the disputed domain name has been registered in bad faith.

The disputed domain name currently resolves to an inactive page, meaning that the disputed domain has not been actively used by the Respondent. Nevertheless, the Panel holds that the particular circumstances of this case would lead to the establishment of bad faith on the Respondent's side under the doctrine of passive holding. Previous panels have already considered that passive holding of a disputed domain name can satisfy the requirements of paragraph 4(a)(iii) of the Policy, and that in such cases the panel must give close attention to all the circumstances of Respondents' behavior (Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003). The principles established in Telstra Corporation Limited v. Nuclear Marshmallows, had been widely adopted by UDRP panels and have found its place in WIPO Overview 3.0. In accordance with Section 3.3. of WIPO overview 3.0, 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. It should be emphasized that it is not required that all the above-listed factors be present in order to establish bad faith use of the disputed domain name (see, for example, Compagnie Générale des Etablissements Michelin v. K Nandalal, BlueHost, WIPO Case No. D2021-3990).

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The Complainant's BOURSOBANK trademark is highly distinctive and as such appears to be exclusively used by the Complainant. Furthermore, the Respondent has failed to provide its response to the UDRP complaint and thereby to provide any explanation for the choice of the disputed domain name and its planned use. In the Panel's opinion, the distinctiveness of the Complainant's BOURSOBANK trademark, which is exclusively used by the Complainant, is such that it is rather difficult to imagine any good faith use that the disputed domain name could be put into. For that reason, the Panel finds that the disputed domain name has been used in bad faith in accordance with the doctrine of passive holding.

The Panel also considers that the configuration of mail exchange records (MX records) on the disputed domain name can also contribute to the Respondent's bad faith. Previous panels have held that mere configuration of such records can represent a severe risk of phishing or other fraudulent and abusive activities (see, for example, Carrefour v. WhoisGuard, Inc., WhoisGuard Protected / Robert Jurek, Katrin Kafut, Purchasing clerk, Starship Tapes & Records, WIPO Case No. D2017-2533, Accenture Global Services Limited v. WhoisGuard Protected, WhoisGuard, Inc. / Basikta James, WIPO Case No. D2020-2955 and JCDECAUX SA v. Handi Hariyono, CAC Case No. CAC-UDRP-102827). In a situation where a disputed domain name is confusingly similar to a third-party trademark that is highly distinctive, it is indeed rather difficult to imagine any good faith use of the mail server attached to such a domain name.

The Panel finds that the disputed domain name has been both registered and is being used in bad faith, and consequently that the Complainant has established the third element of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **boursobank-notify.com**: Transferred

PANELLISTS

Name	**Stefan Bojovic**

DATE OF PANEL DECISION 2025-09-18

Publish the Decision