

## **ADMINISTRATIVE PANEL DECISION**

Euronext N.V. v. Stephane Boujnah  
Case No. D2022-1928

### **1. The Parties**

The Complainant is Euronext N.V., Netherlands, represented by LegalMatters.com, Netherlands.

The Respondent is Stephane Boujnah, France.

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

The disputed domain name <euronext-fund.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 27, 2022. On May 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 31, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on June 1, 2022 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 June 3, 2022.

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 June 8, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 28, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 30, 2022.

The Center appointed Benoit Van Asbroeck as the sole panelist in this matter on July 6, 2022. 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 pan-European bourse that offers various trading services and post-trade services such as clearing, custody and settlement. Traded assets include regulated equities, exchange-traded funds (ETF), warrants and certificates, bonds, derivatives, commodities, foreign exchange as well as indices. In December 2021, it had nearly 2,000 listed issuers. The Complainant is also the largest center for debt and funds listings in the world, and provides technology and managed services to third parties. In addition to its main regulated market, it operates Euronext Growth and Euronext Access, providing access to listing for small and medium-sized enterprises. Finally, the Complainant operates a multi-asset clearing house, Euronext Clearing, and provides custody and settlement services through its central securities depository (CSD), Euronext Securities.

The Complainant owns *inter alia* the following trademark registrations:

European Union Trade Mark No. 011000627 for EURONEXT, registered on December 5, 2012, in International Classes 9, 35, 36, 38 and 41;

United Kingdom Trademark No. UK00911000627 for EURONEXT, registered on December 5, 2012 in International Classes 9, 35, 36, 38 and 41;

European Union Trade Mark No. 013343629 for EURONEXT, registered on March 3, 2015, in International Classes 9, 35, 36, 38, 41 and 42;

United Kingdom Trademark No. UK00913343629 for EURONEXT, registered on March 3, 2015 in International Classes 9, 35, 36, 38, 41 and 42;

European Union Trade Mark No. 018070221 for EURONEXT, registered on February 4, 2020, in International Classes 9, 35, 36, 38, 41 and 42;

United Kingdom Trademark No. UK00918070221 for EURONEXT, registered on February 4, 2020, in International Classes 9, 35, 36, 38, 41 and 42; and

International Registration No. 1506088 for EURONEXT, registered on May 22, 2019, in International Classes 9, 35, 36, 38, 41 and 42.

Hereafter collectively referred to as the “EURONEXT Trademarks”.

The disputed domain name was registered on May 9, 2022, well after the Complainant secured rights to the EURONEXT Trademarks. At the time of this Decision, the disputed domain name resolves to a parking page displaying the message “This Account has been suspended”. However, according to evidence submitted by the Complainant the disputed domain name previously resolved to what appears to be a corporate website of a company called “EURONEXT-FUND” which, according to a description on this website, acts as “an integrated investment platform, whose dedication to investment transition, translates into tangible actions aimed at achieving the basic human wants through natural resources and modern technologies.”

## 5. Parties' Contentions

### A. Complainant

The Complainant asserts that each of the three elements specified in paragraph 4(a) of the Policy are present. The three elements being: (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; (ii) the 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.

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights

The Complainant contends that the disputed domain name is identical, or at least highly similar to the Complainant's earlier EURONEXT Trademarks. It claims that the distinctive element of the disputed domain name, "euronext", is identical to the Complainant's earlier EURONEXT Trademarks. The other element in the disputed domain name, "fund", must be considered descriptive in light of the services offered on the website to which the disputed domain name resolves, according to the Complainant. Furthermore, the Complainant points out that according to the Cambridge Dictionary "fund" means "money invested in a range of shares, bonds, etc. often along with other investors' money". The element ".com", the Complainant states, is only the extension of the disputed domain name and therefore both elements "fund" and ".com" should be considered descriptive and therefore not considered in a comparison between the EURONEXT Trademarks and the disputed domain name. Consequently, the Complainant concludes, the dominant element of the disputed domain name is identical to the Complainant's earlier EURONEXT Trademarks.

(ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name

The Complainant claims that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant points to the fact that the Respondent is not commonly known by the disputed domain name and has not been authorized to use the Complainant's EURONEXT Trademarks. Furthermore, the Complainant contends that the Respondent is not using the disputed domain name with a *bona fide* intent and neither is making a legitimate non-commercial or fair use of the disputed domain name as it is used for a commercial business; an investment platform.

(iii) the disputed domain name has been registered and is being used in bad faith

The Complainant contends that the disputed domain name has been registered and is being used in bad faith. Regarding the registration in bad faith, the Complainant claims that since the Complainant is Europe's largest bourse/stock exchange, it is well known in the financial market and the Respondent could and should therefore have been aware of the Complainant at the time of registering the disputed domain name on May 9, 2022.

According to the Complainant, the Respondent also uses the disputed domain name in bad faith as it is intentionally attempting to attract for commercial gain Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's marks as to the source, sponsorship, affiliation or endorsement of the Respondent's website. The Complainant points to the Respondent's use on its website of the addresses of the Complainant's Irish and French subsidiaries, the names and photos of members of the Managing Board and other senior management of the Complainant, as well as a company logo that resembles the trademarked company logo of the Complainant.

### B. Respondent

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

## 6. Discussion and Findings

The Panel finds that it has jurisdiction to hear this dispute as the Policy has been incorporated by reference into the registration agreement between the Registrar and the Respondent.

The Panel notes that while the Respondent has been duly notified, he did not reply to the Complainant's contentions within the time period established by the Rules. Pursuant to paragraph 14 of the Rules the Panel shall nonetheless proceed to a decision on the Complainant's complaint and it may draw such inferences from the Respondent's failure to respond as it considers appropriate.

Paragraph 4(a) of the Policy requires that in order for its complaint to succeed, the Complainant must prove that the following three elements are present:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the 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 above three elements will each be discussed in further detail below.

### A. Identical or Confusingly Similar

The Complainant is required to establish: (1) that it owns rights in a trademark or service mark, and, if so, (2) that the disputed domain name is identical or confusingly similar to its trademarks.

Firstly, the Panel finds that the Complainant has clearly evidenced that it owns registered trademark rights to EURONEXT. The Panel is satisfied with the evidence provided in support of the existence of trademarks for the word "euronext". It should be noted that paragraph 4(a)(i) of the Policy does not set minimum requirements as to the jurisdictions of the trademarks a complainant relies on, nor as to the number, nature or scope of protection of such trademarks.

Secondly, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademarks since the disputed domain name incorporates the entirety of the EURONEXT Trademarks (see [WIPO Overview 3.0](#), section 1.7 as well as, *L'Oréal, Lancôme Parfums et Beauté & Cie v. Jack Yang*, WIPO Case No. [D2011-1627](#), *Rapidshare AG, Christian Schmid v. InvisibleRegistration.com, Domain Admin*, WIPO Case No. [D2010-1059](#), and *The Stanley Works and Stanley Logistics, Inc. v. Camp Creek Co., Inc.*, WIPO Case No. [D2000-0113](#)). The Panel agrees with the Complainant that the other word "fund" is descriptive. This word will likely be read separately from the mark "Euronext", especially because it is separated by a hyphen. In any event, as the EURONEXT trademarks are recognizable and incorporated in their entirety within the disputed domain name, the addition of "fund" does not prevent the Panel's finding of confusing similarity under the first element. It is a well-established view of UDRP panels, with which the Panel agrees, that the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element (see for instance: *Ansell Healthcare Products Inc. v. Australian Therapeutics Supplies Pty, Ltd.*, WIPO Case No. [D2001-0110](#); *Nintendo of America Inc. v. Fernando Sascha Gutierrez*, WIPO Case No. [D2009-0434](#); *M/s Daiwik Hotels Pvt. Ltd v. Senthil Kumaran S, Daiwik Resorts*, WIPO Case No. [D2015-1384](#); *BHP Billiton Innovation Pty Ltd v. Oloyi*, WIPO Case No. [D2017-0284](#)).

Finally, as for the applicable Top-Level Domain, ".com", the Panel holds that this can be disregarded under the first element confusing similarity test (*CANAL + FRANCE v. Franck Letourneau*, WIPO Case No. [DTV2010-0012](#); *Bentley Motors Limited v. Domain Admin / Kyle Rocheleau, Privacy Hero Inc.*, WIPO Case No. [D2014-1919](#); *SAP SE v. Mohammed Aziz Sheikh, Sapteq Global Consulting Services*, WIPO Case No. [D2015-0565](#)).

On the basis of the foregoing findings, and according to paragraph 4(a)(i) of the Policy, this Panel finds and concludes that the disputed domain name is confusingly similar to the Complainant's trademarks.

## **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy non-exhaustively lists three circumstances that shall demonstrate a right or legitimate interest:

"Any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate your rights or legitimate interests to the domain name for purposes of Paragraph 4(a)(ii):

- (i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or
- (iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue."

It is a well-established view of UDRP panels, with which the Panel agrees, that a *prima facie* case advanced by a complainant is generally sufficient to satisfy the requirements under paragraph 4(a)(ii) of the Policy, provided that a respondent does not submit any evidence to the contrary (*AGUAS DE CABREIROA, S.A.U. v. Hello Domain*, WIPO Case No. [D2014-2087](#); *Spigen Korea Co., Ltd., Spigen Inc. v. Domain Admin, Whois Privacy Corp.*, WIPO Case No. [D2016-0145](#); *HubSpot, Inc. v. WhoisGuard Protected, WhoisGuard, Inc. / Steve Johnson*, WIPO Case No. [D2016-1338](#)).

The Panel notes that the Respondent has not responded to any of the Complainant's contentions, let alone submitted evidence to the contrary, and that, pursuant to paragraph 14 of the Rules, the Panel may draw such inferences from the Respondent's failure to respond as it considers appropriate. In the present case, taking into consideration the Respondent's default, this Panel finds that the Complainant has made out an un rebutted *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, in view of the circumstances of this case, including the following factors.

The Panel concludes that there is no evidence that the Respondent is using the disputed domain name for a *bona fide* offering of goods or services or a legitimate noncommercial or fair use of the domain name. The fact that the disputed domain name does not currently resolve to an active website supports this. Moreover, as the Complainant has demonstrated, the Respondent previously used the disputed domain name to falsely suggest affiliation with the Complainant. The Complainant has shown that the disputed domain name used to resolve to a website that presented the addresses of the Complainant's Irish and French subsidiaries as the addresses of the Respondent's head office and another office, used the names and photos of members of the Managing Board and other senior management of the Complainant to falsely claim that they are the Respondent's "fund holders", as well as prominently showed a company logo that resembled the trademarked company logo of the Complainant. The Panel agrees with the Complainant that the combination of these elements may indeed have led consumers to be confused about the source of the website and whether the website is sponsored or otherwise endorsed by the Complainant. The Panel agrees with the Complainant that the other word "fund" is descriptive and likely refers to the activity in which the Respondent is (seemingly) engaged. This word will likely be read separately from the mark "Euronext", especially because it is separated by a hyphen. Based on the evidence provided, it is also plausible that the website was primarily intended for commercial gain. As is clear from Sections 2.2 and 2.5 of the [WIPO Overview 3.0](#), UDRP Panels have consistently found that such use of a domain name can neither be considered fair use of the domain name nor a *bona fide* offering of goods or services.

In addition, no evidence has been provided to prove that the Respondent has a connection or affiliation with the Complainant or has received any license or consent, whether express or implied, to use the EURONEXT Trademarks in a domain name or in any other manner. The Panel has taken note of the Complainant's confirmation in this regard and has not seen any evidence that would suggest the contrary. In the absence of any license or permission from the Complainant to use its trademarks, no actual or contemplated *bona fide* or legitimate use of the disputed domain name could reasonably be claimed (see e.g. WIPO Case No. [D2014-1875](#), *Sportswear Company S.P.A. v. Tang Hong*; WIPO Case No. [D2010-0138](#), *LEGO Juris A/S v. DomainPark Ltd, David Smith, Above.com Domain Privacy, Transure Enterprise Ltd, Host master*).

Finally, the Panel agrees with the Complainant that there is no evidence that the Respondent has been commonly known by the disputed domain name.

For all the foregoing reasons, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

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

Paragraph 4(b) of the Policy non-exhaustively lists four circumstances that, if found by the Panel to be present, shall be evidence of the registration and use of the domain name in bad faith:

“(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location.”

The Panel finds that the circumstances and evidence presented by the Complainant offer sufficient proof that both the Respondent's registration and current use of the disputed domain name are in bad faith.

The Panel will first discuss the Respondent's registration of the disputed domain name. The Panel believes that the Respondent knew or, at least, should have known at the time of registration that the disputed domain name incorporated the Complainant's EURONEXT Trademarks. The Panel agrees with the Complainant that, since the Complainant is Europe's largest bourse/stock exchange and therefore well known in the financial market, the Respondent should have known about the Complainant at the time of registration. The same applies to the Complainant's trademarks as the registration of the EURONEXT Trademarks predates the registration of the disputed domain name by many years. Moreover, the Panel believes that the mark EURONEXT is highly distinctive and the Respondent has not provided a reasonable explanation for adoption of this mark. The Respondent's knowledge of the Complainant and its abovementioned EURONEXT Trademarks and therefore its registration in bad faith of the disputed domain name may already be inferred from these circumstances alone (see Section 3.2.2 of the [WIPO Overview 3.0](#) and in particular: *SembCorp Industries Limited v. Hu Huan Xin*, WIPO Case No. [D2001-1092](#)). This conclusion is further enhanced by the Respondent's past use of the disputed domain name which is discussed below.

The Panel finds that the use of the disputed domain name subsequent to registration only serves as further (unrebutted) evidence that the Respondent knew about the Complainant and its EURONEXT Trademarks at the time of registration of the disputed domain name. As mentioned above, the Complainant presented evidence that the disputed domain name previously resolved to a website that presented the addresses of the Complainant's Irish and French subsidiaries as the addresses of the Respondent's head office and another office, used the names and photos of members of the Managing Board and other senior management of the Complainant to falsely claim that they are the Respondent's "fund holders", as well as prominently showed a company logo that resembled the trademarked company logo of the Complainant.

The Panel believes that the Complainant has also convincingly demonstrated that the disputed domain name has been used in bad faith, namely to attract, for commercial gain, Internet users to the Respondent's website by creating a likelihood of confusion with the EURONEXT Trademarks as to the source, sponsorship, affiliation, or endorsement of this website (Paragraph 4(b)(iv) of the Policy). The fact that the disputed domain name no longer resolves to an active website and therefore the use of the disputed domain name in the abovementioned manner may now have stopped, does not prevent this finding of bad faith use. It is a well-established view of UDRP panels, including in *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#), and *Jupiters Limited v. Aaron Hall*, WIPO Case No. [D2000-0574](#), that the non-use of a domain name does not prevent a finding of bad faith under the doctrine of passive holding. The Panel agrees with this view and finds that the circumstance of the abovementioned past bad faith use by the Respondent makes it implausible that the disputed domain name will be put to any good faith use in the future.

In light of the above, this Panel finds that the disputed domain name was registered and is being used by the Respondent in bad faith under 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, <euronext-fund.com> be transferred to the Complainant.

*/Benoit Van Asbroeck/*

**Benoit Van Asbroeck**

Sole Panelist

Date: July 20, 2022