

ADMINISTRATIVE PANEL DECISION

Euronext N.V. v. Antoni Quang
Case No. D2022-3356

1. The Parties

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

The Respondent is Antoni Quang, Viet Nam.

2. The Domain Name and Registrar

The disputed domain name <euronext33.com> is registered with Name SRS AB (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 7, 2022. On September 9, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 23, 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 (Protected Protected, Shield Whois) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 23, 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 October 24, 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 October 25, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 14, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 16, 2022.


The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on November 22, 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 stock exchange that offers trading and post-trade services such as clearing, custody and settlement, formed by the merger of European Union (“EU”) stock exchanges.

In addition to the <euronext.com> domain name used in connection with the Complainant’s official website, it is the owner of the following, among others, trademark registrations:

- EU Trade mark registration No. 011000627 for the word mark EURONEXT, filed on June 28, 2012 and registered on December 5, 2012, in classes 9, 35, 36, 38, and 41;
- International Trademark registration No. 1506088 for the word mark EURONEXT, registered on May 22, 2019, in classes 9, 35, 38, 41, and 42; and
- EU Trade mark registration No. 010891695 for the device mark,  filed on May 17, 2012 and registered on November 5, 2012, in classes 9, 16, 35, 36, 38, and 41.

The disputed domain name was registered on July 18, 2022, and has been used in connection with a website in Vietnamese inviting Internet users to “deposit 1 million for the first time to get 200,000 VTN immediately” (Annex 12 to the Amended Complaint) reproducing the Complainant’s registered device mark. Currently Internet users while accessing the disputed domain name are redirected to the webpage available at “www.habitatbinhduong.vn/” promoting a building complex in Viet Nam.

5. Parties’ Contentions

A. Complainant

The Complainant claims that its origins can be traced back to the world’s first bourses, formed in the Low Countries’ shifting trade centers: Bruges, Antwerp and Amsterdam in 1285, 1485 and 1602, respectively, having assumed its present form as the merger of EU stock exchanges at the turn of the 21st century, following the introduction of the single currency and harmonization of financial markets, and become Europe’s largest stock exchange.

According to the Complainant, in December 2021, it had nearly 2,000 listed issuers, having become one of the largest center for debt and funds listings in the world, and providing technology and managed services to third parties, also operating the Euronext Growth and Euronext Access, providing access to listing for small and medium-sized enterprises, as well as operating a multi-asset clearing house, Euronext Clearing, and providing custody and settlement services through its central securities depository (CSD), the Euronext Securities.

The Complainant contends that the disputed domain name is confusingly similar to its registered EURONEXT trademark, entirely reproduced therein, not adding the “33” element any distinctiveness thereto.

According to the Complainant, the Respondent has no rights or legitimate interests in the disputed domain name given that:

- (i) the Respondent has no prior rights or legitimate interest in the disputed domain name;
- (ii) the Respondent is not commonly known by the disputed domain name and has not been authorized to

use the Complainant's EURONEXT trademark; and

(iii) the Respondent has not used the disputed domain name with a *bona fide* intent.

As to the registration of the disputed domain name in bad faith the Complainant submits that the Respondent knew of, or should have known of, the Complainant's prior existing rights in the EURONEXT well-known trademark given that the Complainant is one of EU largest stock exchange, what is further corroborated by the reproduction of the Complainant's registered logo in the website that was available at the disputed domain name at the time of the filing of this procedure (Annexes 12-15 to the Amended Complaint).

The Complainant further argues that the Respondent's intent was to use the disputed domain name to attract, for the Respondent's own commercial gain, Internet users to the disputed domain name by creating a likelihood of confusion with the Complainant's EURONEXT trademark so as to trade off the goodwill and reputation associated therewith.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy sets forth the following three requirements, which have to be met for this Panel to order the transfer of the disputed domain name to the Complainant:

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

(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 Complainant must prove in this administrative proceeding that each of the aforesaid three elements is present in order to obtain the transfer of the disputed domain name.

A. Identical or Confusingly Similar

The Complainant has established rights in the EURONEXT trademark, duly registered in various countries.

The Panel finds that the disputed domain name reproduces the Complainant's mark with the addition of the element "33", which does not prevent the mark from being recognizable within the disputed domain name and thus being confusingly similar therewith. It is well accepted that the first element functions primarily as a standing requirement and that the threshold test for confusing similarity involves a "reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name". (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), sections 1.7).

Furthermore, while typically the website's content is not taken into consideration under the first element analysis, this Panel notes in this case that the website associated with the disputed domain name at the time of the filing of this procedure reproduced the Complainant's logo, which confirms confusing similarity, because it appears *prima facie* that the Respondent sought to target the Complainant's trademarks through the disputed domain name. See [WIPO Overview 3.0](#), section 1.15.

The first element of the Policy has therefore been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a non-exclusive list of circumstances that indicate a respondent's rights to or legitimate interests in a disputed domain name. These circumstances are:

- (i) before any notice of the dispute, the respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent (as an individual, business, or other organization) has been commonly known by the disputed domain name, in spite of not having acquired trademark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Respondent, in not formally responding to the Complaint, has failed to invoke any of the circumstances which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights to and/or legitimate interests in the disputed domain name. This entitles the Panel to draw any such inferences from such default as it considers appropriate pursuant to paragraph 14(b) of the Rules. Nevertheless, the burden is still on the Complainant to first make a *prima facie* case against the Respondent.

In that sense, the Complainant indeed states that it has not authorized the Respondent to use the EURONEXT trademark.

Also, the absence of any indication that the Respondent owns registered trademarks or trade names corresponding to the disputed domain name, or any possible link between the Respondent and the disputed domain name that could be inferred from the details known of the Respondent or the webpage relating to the disputed domain name, corroborate with the Panel's finding of the absence of rights or legitimate interests.

Under these circumstances and absent evidence to the contrary, the Panel finds that the Complainant has established that the Respondent does not have rights or legitimate interests with respect to the disputed domain name.

C. Registered and Used in Bad Faith

The Policy indicates in paragraph 4(b)(iv) that bad faith registration and use can be found in respect of a disputed domain name, where a respondent has intentionally attempted to attract, for commercial gain, Internet users to the respondent's website or other online location, by creating a likelihood of confusion with a complainant's mark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on the website or location.

In this case, both the registration and use of the disputed domain name in bad faith can be found pursuant to Policy, paragraph 4(b)(iv) in view of the reproduction of the Complainant's logo in connection with investment offers at the webpage relating to the disputed domain name at the time of the filing of this procedure, which creates a likelihood of confusion with the Complainant's marks as to the source, sponsorship, affiliation, or endorsement thereof.

Moreover, bad faith of the Respondent is also supported here by (i) the lack of reply by the Respondent invoking any rights; (ii) the choice to retain a privacy protection service; and (iii) false or incomplete information used by the Respondent for registering the disputed domain name, since the Written Notice was not delivered to the Respondent by courier service.

For the reasons stated above, the Respondent's conduct amounts, in this Panel's view, to bad faith registration and use of the disputed domain name.

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, <euronext33.com>, be transferred to the Complainant.

/Wilson Pinheiro Jabur/

Wilson Pinheiro Jabur

Sole Panelist

Date: November 29, 2022