

ADMINISTRATIVE PANEL DECISION

Euronext N.V. v. Hostingkr (김성일)

Case No. D2023-1154

1. The Parties

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

The Respondent is Hostingkr (김성일), Republic of Korea.

2. The Domain Name and Registrar

The disputed domain name <euronext-kr.com> is registered with Megazone Corp., dba HOSTING.KR (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on March 15, 2023. On March 15, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 16, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which added a Korean name to the named Respondent name indicated in the Complaint. The Center sent an email communication to the Complainant on March 20, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed two amended Complaints on March 29, 2023, and March 30, 2023.

On March 20, 2023, the Center notified the Parties in both English and Korean that the language of the registration agreement for the disputed domain name is Korean. On March 29, 2023, the Complainant requested for English to be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

The Center verified that the Complaint together with the amended Complaints 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, in both English and Korean, and the proceedings commenced on March 31, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 20, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 21, 2023.

The Center appointed Kathryn Lee as the sole panelist in this matter on May 9, 2023. 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 and market infrastructure based in the Netherlands. It operates regulated exchanges in Belgium, France, Ireland, Italy, the Netherlands, Norway, and Portugal. It has close to 2,000 listed issuers and around EUR 5.7 trillion in market capitalization as of September 2022. The Complainant owns trademark registrations to EURONEXT in a number of jurisdictions including in the European Union (Registration Number 013343629, registered on March 3, 2015) and the United Kingdom (Registration Number UK00913343629, registered on March 3, 2015).

The Respondent appears to be an individual with an address in the Republic of Korea.

The disputed domain name was registered on January 18, 2023, and does not currently display any content. At the time of filing the Complaint, the disputed domain name resolved to a website for investing and containing digital trading tools.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to the EURONEXT trademark in which the Complainant has rights. The Complainant explains that the disputed domain name incorporates the Complainant's trademark as a whole, and simply adds the term "kr" which is only the country abbreviation for the Republic of Korea which is descriptive and does not prevent a finding of confusing similarity.

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name and confirms that it has not authorized or licensed rights to the Respondent in any respect. The Complainant further contends that there is no evidence of 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.

Finally, the Complainant contends that the disputed domain name was registered and is used in bad faith. The Complainant contends that the disputed domain name was registered in bad faith since the Complainant is well-known in the financial market and a simple Internet search would have revealed information on the Complainant and its trademark. The Complainant also argues that the Respondent is making use of the Complainant's registered mark XEURONEXT on the website connected to the disputed domain name which demonstrates the Respondent's bad faith use and intentional attempt 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.

B. Respondent

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

6. Discussion and Findings

A. Language

Paragraph 11(a) of the Rules provides that the language of the proceeding shall be the language of the registration agreement, unless otherwise agreed to by the parties, subject to the authority of the panel to determine otherwise. In this case, the language of the Registration Agreement is Korean, and both Parties have had an opportunity to argue their position on this point. The Center issued a notice in Korean and English stating that it would accept the Complaint filed in English, and that the Response would be accepted in either Korean or English. The Respondent subsequently chose not to submit any response.

The Panel finds it proper and fair to render this decision in English. Given the fact that the Complainant is based in the Netherlands and the Respondent is based in the Republic of Korea, English would appear to be a fair and neutral language for rendering this decision. Further, the website connected to the disputed domain name displays content in English, for example, "Let's Get Started!" and "Advanced Trading Tools", which show that the Respondent has some knowledge of English. Besides, both Parties were given the opportunity to submit arguments in the language of their preference, and the language in which to render the decision is reserved for the Panel. The Panel would have considered a Response in Korean, but no Response was submitted. Accordingly, the Panel determines that rendering the decision in English is fair and procedurally efficient given the circumstances of this case.

B. Identical or Confusingly Similar

The Complainant has demonstrated with supporting evidence that it has rights to the trademark EURONEXT. As for the disputed domain name, it consists of "euronext" along with the term "kr". According to WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7, a domain name is considered confusingly similar to a trademark if it "incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name". In this regard, the Complainant's mark is incorporated in its entirety in the disputed domain name, and therefore, the disputed domain name is confusingly similar to the Complainant trademark. The additional term "kr" does not prevent a finding of confusing similarity (see [WIPO Overview 3.0](#), section 1.8).

For the reasons mentioned above, the Panel finds that the first element has been established.

C. Rights or Legitimate Interests

On the basis of the present record, the Panel finds that the Complainant has made the required allegations to support a *prima facie* case showing that the Respondent has no rights or legitimate interests in the disputed domain name. Once such a *prima facie* case has been established, the burden of production shifts to the Respondent to demonstrate its rights or legitimate interests in the disputed domain name, with the burden of proof always remaining with the Complainant. However, the Respondent in this case has chosen to file no substantive Response to these assertions by the Complainant, and there is no evidence or allegation in the record that would warrant a finding in favor of the Respondent on this point.

Besides, a respondent's use of a domain name is not considered "fair" if it falsely suggests affiliation with the trademark owner. See [WIPO Overview 3.0](#), section 2.5.1. Here, the dominant element of the disputed domain name corresponds exactly to the Complainant's trademark and carries a risk of implied affiliation.

For the reasons provided above, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, and that the second element has been established.

D. Registered and Used in Bad Faith

The Panel finds that there is sufficient evidence to find bad faith in this case.

Section 3.1 of the [WIPO Overview 3.0](#) provides that bad faith under the UDRP is “broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant’s mark”. Here, evidence suggests that the Respondent likely knew of the Complainant when registering the disputed domain name. First of all, the disputed domain name consists of the Complainant’s trademark along with “kr” which is a term that refers to the country abbreviation of the Republic of Korea, and the Respondent has given no explanation for having registered a domain name containing the Complainant’s mark. Further, the Respondent used the disputed domain name to display content related to investing and trade, which is the very business of the Complainant, and not only that, also used on the website a device essentially identical to the Complainant’s own device mark XEURONEXT. This shows that the Respondent knew of the Complainant and its business and registered the disputed domain name and displayed the contents relating to investing and trade on the website in order to financially benefit from the likelihood of confusion with the Complainant’s mark.

For the reasons given above, the Panel finds that the third element has been established.

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-kr.com>, be transferred to the Complainant.

/Kathryn Lee/

Kathryn Lee

Sole Panelist

Date: May 23, 2023