

ADMINISTRATIVE PANEL DECISION

Euronext N.V. v. no, lar frank

Case No. D2023-2664

1. The Parties

The Complainant is Euronext N.V., Netherlands (Kingdom of the), represented by LegalMatters.com B.V., Netherlands (Kingdom of the).

The Respondent is no, lar frank, Philippines.

2. The Domain Names and Registrar

The disputed domain names <euronextcom.pw> and <euronextcom.top> are registered with NameSilo, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on June 21, 2023. On June 21, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On June 21, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names, which differed from the named Respondent (PrivacyGuardian.org llc and NameSilo, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 25, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint or to file a separate complaint for any of the disputed domain names. The Complainant filed an amended Complaint on August 4, 2023.

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 August 7, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 27, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 28, 2023.

The Center appointed Federica Togo as the sole panelist in this matter on September 5, 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 the registered owner of many trademarks in several jurisdictions for EURONEXT, e.g. European Union Trade Mark registration No. 013343629, registered on March 3, 2015 for goods and services in the classes 9, 35, 36, 38, 41 and 42.

The disputed domain names <euronextcom.top> and <euronextcom.pw> were both registered on May 16, 2023 and resolved to websites allegedly offering “trading cryptocurrency platform” and reproducing without any authorization the Complainant’s trademark and logo which are identical to those displayed on the Complainant’s website.

5. Parties’ Contentions

A. Complainant

It results from the Complainant’s undisputed allegations that it is a pan-European market infrastructure, connecting European economies to global capital markets, to accelerate innovation and sustainable growth. It operates regulated exchanges in Belgium, France, Ireland, Italy, the Netherlands (Kingdom of the), Norway and Portugal. With close to 2,000 listed issuers and around EUR 5.7 trillion in market capitalization as of end September 2022, it has a blue-chip franchise and a strong diverse domestic and international client base. It operates regulated and transparent equity and derivatives markets. Its total product offering includes Equities, FX, Exchange Traded Funds, Warrants & Certificates, Bonds, Derivatives, Commodities and Indices.

The Complainant contends that it is well known in the financial market.

It uses the domain name <euronext.com> for its official website where it promotes its services also using its registered device mark.

The Complainant further contends that the disputed domain names are identical, or at least highly similar to the Complainant’s earlier trademark EURONEXT: in fact, the distinctive element of the disputed domain names is EURONEXT, which is identical to the Complainant’s earlier registered trademark. The element “com” in the disputed domain names is merely the abbreviation of “company”, and a referral to the Top-Level extension “.com” in an attempt to copy, or at least come as close as possible to the Complainant’s domain name <euronext.com>.

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain names. According to the Complainant, the Respondent is not commonly known by the disputed domain names and has not been authorized to use the Complainant’s EURONEXT trademark. Furthermore, the Respondent is not using the disputed domain names with a *bona fide* intent nor is making a legitimate noncommercial or fair use of the disputed domain names. In fact, the disputed domain names resolve to websites reproducing a logo identical to the Complainant’s registered device mark, amongst others, registered in the European Union and the United Kingdom.

Finally, the Complainant contends that the disputed domain names were registered and are being used in bad faith. According to the Complainant, it is well known in the financial market which the Respondent could and should have been aware of at the time of registering the disputed domain names. By using the disputed domain names in combination with the registered device mark of the Complainant, the Respondent is

intentionally attempting to attract for commercial gain Internet users to the Respondent's websites by creating a likelihood of confusion with the Complainant's marks as to the source, sponsorship, affiliation or endorsement of the Respondent's websites. The Respondent is pretending to be the Complainant's subsidiary, or at least related to the Complainant, for the sole purpose to attract Internet users for commercial gain by intentionally infringing the Complainant's exclusive rights.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs this Panel to "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 requires a complainant to prove each of the following three elements in order to obtain an order that the disputed domain name be transferred or cancelled:

- (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 Panel will therefore proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied.

A. Identical or Confusingly Similar

Pursuant to paragraph 4(a)(i) of the Policy, the Complainant must establish rights in a trademark or service mark and secondly establish that the disputed domain names are identical or confusingly similar to a trademark in which the Complainant has rights.

It results from the evidence provided, that the Complainant is the registered owner of trademark registration for EURONEXT as indicated in the Factual Background of this Decision.

Prior UDRP panels have found that a disputed domain name is confusingly similar to a complainant's trademark where the disputed domain name incorporates the complainant's trademark in its entirety (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") at section 1.7.

This Panel shares this view and notes that the Complainant's registered trademark EURONEXT is fully included in the disputed domain names, followed by the term "com". Furthermore, it is the view of this Panel that the addition of the term "com" in the disputed domain names cannot prevent a finding of confusing similarity between the disputed domain names and the Complainant's trademark since the Complainant's trademark is clearly recognizable in the disputed domain names (see [WIPO Overview 3.0](#) at section 1.8).

Finally, the generic Top-Level Domain ("gTLD") ".top" and the country code Top-Level Domain ("ccTLD") ".pw" of the disputed domain names may be disregarded under the first element confusing similarity test (see [WIPO Overview 3.0](#) at section 1.11.1).

In the light of the above, the Panel finds that the disputed domain names are confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(a)(ii) of the Policy, the Complainant must secondly establish that the Respondent has no rights or legitimate interests in respect of the disputed domain names.

Paragraph 4(c) of the Policy contains a non-exhaustive list of circumstances which, if found by the Panel to be proved, shall demonstrate the Respondent's rights or legitimate interests to the disputed domain names. In the Panel's view, based on the undisputed allegations stated above, the Complainant has made a *prima facie* case that none of these circumstances are found in the case at hand and, therefore, that the Respondent lacks rights or legitimate interests in the disputed domain names.

According to the Complaint, which has remained unchallenged, the Complainant has no relationship in any way with the Respondent and, in particular, did not authorize the Respondent's use of the trademark EURONEXT, e.g. by registering the disputed domain names comprising the said trademark entirely.

Furthermore, the Panel notes that there is no evidence showing that the Respondent might be commonly known by the disputed domain names in the sense of paragraph 4(c)(ii) of the Policy.

The Panel finds it most likely that the Respondent selected the disputed domain names with the intent to attract Internet users for commercial gain. This is also confirmed by the content of the websites to which the disputed domain names resolved, allegedly offering its services as "trading cryptocurrency platform" and reproducing without any authorization the Complainant's trademark and logo which are identical to those displayed on the Complainant's website.

It is acknowledged that once the Panel finds a *prima facie* case is made by a complainant, the burden of production under the second element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name (see [WIPO Overview 3.0](#) at section 2.1). Since the Complainant has put forward a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names and the Respondent in the case at hand failed to come forward with any allegations or evidence, this Panel finds, in the circumstances of this case, that the Respondent has no rights or legitimate interests in the disputed domain names.

The Panel finds that the Complainant has therefore satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

According to paragraph 4(a)(iii) of the Policy, the Complainant must thirdly establish that the disputed domain names have been registered and is being used in bad faith. The Policy indicates that certain circumstances specified in paragraph 4(b) of the Policy may, "in particular but without limitation", be evidence of the disputed domain name's registration and use in bad faith. One of these circumstances is that the Respondent by using the disputed domain name, has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product or service on its website or location (paragraph 4(b)(iv) of the Policy).

It is the view of this Panel that these circumstances are met in the case at hand.

It results from the Complainant's documented allegations that the disputed domain names resolved to websites allegedly promoting similar services to those of the Complainant and reproducing without any authorization the Complainant's trademark and the logo. For the Panel, it is therefore evident that the Respondent knew the Complainant's mark. Consequently, and in the absence of any evidence to the contrary, the Panel is convinced that the Respondent also knew that the disputed domain names included the Complainant's trademark when it registered the disputed domain names. This is underlined by the fact that the disputed domain names are clearly constituted by the Complainant's registered trademark EURONEXT followed by the term "com".

Finally, the further circumstances surrounding the disputed domain names' registration and use confirm the findings that the Respondent has registered and is using the disputed domain names in bad faith (see [WIPO Overview 3.0](#) at section 3.2.1):

(i) the nature of the disputed domain names (domain names incorporating the Complainant's mark plus the term "com");

(ii) the content of the websites to which the disputed domain names direct, promoting similar services to those of the Complainant and reproducing without any authorization the Complainant's trademark and the logo;

(iii) a clear absence of rights or legitimate interests coupled with no credible explanation for the Respondent's choice of the disputed domain names.

The Panel finds that the Complainant has therefore satisfied paragraph 4(a)(iii) of 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 names, <euronextcom.pw> and <euronextcom.top>, be transferred to the Complainant.

/Federica Togo/

Federica Togo

Sole Panelist

Date: September 18, 2023