

## **ADMINISTRATIVE PANEL DECISION**

Euronext N.V. v. Phan Thanh  
Case No. D2023-2967

### **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 Phan Thanh, Viet Nam.

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

The disputed domain name <euronextrading.com> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 11, 2023. On July 12, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 12, 2023, 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 (Redacted for Privacy Registrant Organization: Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 13, 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 an amendment to the Complaint on July 13, 2023.

The Center verified that the Complaint together with the amendment to the 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 sent notification to the Respondent of the Complaint, and the proceedings commenced on July 27, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 16, 2023. The Respondent did not submit any response. Accordingly, the Center sent notification of the Respondent’s default on August 23, 2023.

The Center appointed Petra Pecar as the sole panelist in this matter on August 30, 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, Euronext is a pan-European market infrastructure, connecting European economies to global capital markets. The Complainant operates exchanges in Belgium, France, Ireland, Italy, the Netherlands (Kingdom of the), Norway, and Portugal. As of September 2022, the Complainant has nearly 2,000 listed issuers with a market capitalization of EUR 5.7 trillion. The Complainant offers a range of products including equities, derivatives, and bonds, and provides clearing, custody, and settlement services. Historically, its origins trace back to the first bourses in Bruges, Antwerp, and Amsterdam, evolving into its current form after a merger of European Union stock exchanges in the early 21st century.

The Complainant owns EURONEXT mark registrations including the following:

- European Union, trademark registration No. 013343629 for word mark EURONEXT in Classes 9, 35, 36, 38, 41, and 42, registered March 3, 2015;
- United Kingdom, trademark registration No. UK00913343629 for word mark EURONEXT in Classes 9, 35, 36, 38, 41, and 42, registered March 3, 2015;
- European Union, trademark registration No. 018070221 for word mark EURONEXT in Classes 9, 35, 36, 38, 41, and 42, registered February 4, 2020;
- United Kingdom, trademark registration No. UK00918070221 for word mark EURONEXT in Classes 9, 35, 36, 38, 41, and 42, registered on February 4, 2020; and
- International registration No. 1506088, designating the United Kingdom, Norway, Russian Federation, Singapore, and the United States of America, for word mark EURONEXT in Classes 9, 35, 36, 38, 41, and 42, registered May 22, 2019.

The disputed domain name was registered on June 24, 2023, and resolves to a website in which the Complainant's mark and logo are reproduced in connection to financial services.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant argues that the disputed domain name, <euronextrading.com>, is visually and phonetically similar to their earlier mark EURONEXT. The primary distinguishing element of the disputed domain name is the term "euronext", which is an exact match to the Complainant's mark. When considering the disputed domain name in its entirety, the section "rading" combined with the "t" from "euronext" gives the word "trading", the descriptive term, applicable to the services provided by the Complainant under their EURONEXT mark, as well as the services shown by the Respondent on their website, notably cryptocurrency trading. Given its descriptive nature, the term "rading" should be perceived as non-distinctive and thus not have a major role in comparing the disputed domain name with the Complainant's EURONEXT mark.

Additionally, the suffix ".com", being a generic Top-Level Domain ("gTLD") extension, is likewise non-distinctive and should not play a significant role when comparing with Complainant's mark.

Even if the elements "rading" and ".com" contribute some distinctiveness, the overarching impression is that the disputed domain name and the Complainant's EURONEXT mark are either nearly identical or at least confusingly similar. This similarity has the potential to mislead the public into believing that there is some form of association or endorsement between the disputed domain name and the Complainant.

The Complainant contends that the Respondent has no legitimate interest to the disputed domain name. This assertion is based on the fact that the Respondent is not commonly associated with the disputed domain name. Additionally, the Respondent has not been granted permission to use the Complainant's EURONEXT mark within the disputed domain name. Moreover, the Respondent lacks a genuine intention to use the disputed domain name. The domain name is not being used by the Respondent for any legitimate noncommercial or fair purposes.

The Complainant argues that the Respondent registered the disputed domain name in bad faith. This is evidenced by their awareness of the Complainant's reputation as Europe's leading stock exchange at the time of registration. The Respondent's decision to use the term "euronext" on the website, a mark previously registered by the Complainant, further supports the Complainant's arguments. Moreover, the inclusion of a logo identical to the Complainant's registered device mark, which is recognized in both the European Union and the United Kingdom, also points towards bad faith registration.

Regarding the use in bad faith, by associating the disputed domain name with the Complainant's word mark and device marks, the Respondent seems to be strategically drawing Internet users to its platform. Such a tactic appears designed to create confusion about any potential association between the Complainant and the Respondent, which not only poses a threat to the Complainant's reputation but also misleads consumers. The Respondent's actions suggest they are capitalizing on the disputed domain name to gain commercial advantages by deliberately infringing upon the Complainant's rights.

## **B. Respondent**

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

## **6. Discussion and Findings**

Even if the Respondent did not file a Response to the Complainant's contentions, the Panel shall consider the issues present in the case based on the statements and documents submitted by the Complainant.

"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", as indicated in paragraph 15(a) of the Rules.

Under paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements:

- (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 by the Respondent in bad faith.

### **A. Identical or Confusingly Similar**

Paragraph 4(a)(i) of the Policy requires a complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights. A trademark registration provides a clear indication that the rights in the trademark belong to the complainant (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.2.1).

In the present case, the Panel finds that the Complainant has established its rights in the EURONEXT mark based on previous European Union and worldwide trademark registrations.

The disputed domain name incorporates the Complainant's mark EURONEXT. This is followed by the term "rading", which when combined with the letter "t" from EURONEXT, forms the word "trading". Moreover, the disputed domain name concludes with the gTLD ".com". The Complainant's EURONEXT mark is recognizable within the disputed domain name and the inclusion of the additional elements does not prevent a finding of confusing similarity.

As noted in [WIPO Overview 3.0](#), section 1.8: "Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity under the first element." Similarly, the gTLD ".com" does not generally preclude a finding of confusing similarity between the disputed domain name and the Complainant's trademarks in accordance with the well-established practice of previous UDRP panels. Therefore, the Panel holds that the combination of the Complainant's mark EURONEXT together with "rading" and the applicable gTLD suffix ".com" does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's EURONEXT mark, which remains clearly recognizable in the disputed domain name.

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the trademark in which the Complainant has rights, meaning that the Complainant has satisfied the requirement under paragraph 4(a)(i) of the Policy.

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

Under the second element of the Policy, a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name. Once such *prima facie* case is made, the burden of production shifts to the respondent to come forward with relevant evidence to rebut that presumption. If the respondent fails to do so, a complainant is generally deemed to have satisfied the second element, as set out in paragraph 4(a)(ii) of the Policy (see also [WIPO Overview 3.0](#), section 2.1).

The Respondent failed to provide any evidence of authorization to use the EURONEXT mark or to register a domain name containing the EURONEXT mark.

According to the Complainant, the Respondent is not associated or connected with the Complainant in any way, and the Complainant has not granted the Respondent any license or authorization to use or register any domain name that includes the Complainant's EURONEXT mark. The Respondent has further failed to provide a response to the Complaint, thereby failing to present any information or factors that could potentially justify prior rights or legitimate interests in the disputed domain name. Additionally, there appears to be no evidence of the Respondent engaging in any legitimate or genuine use of the disputed domain name, whether for noncommercial or *bona fide* activities. Rather, the evidence illustrates that the Respondent has sought to impersonate the Complainant in an apparent phishing scheme to collect personal information from mislead Internet users believing themselves to be engaging with the Complainant's platform. Such illicit activity can never confer rights or legitimate interests. [WIPO Overview 3.0](#), section 2.13.

In addition, the Panel finds that the nature of the disputed domain name, which consists of the Complainant's EURONEXT mark combined with the term "rading", which when read together with the "t" from the Complainant's trademark results in the industry-descriptive term "trading" for the Complainant's services and thus suggests an affiliation with the Complainant and for that reason a fair use cannot be constituted (see section 2.5.1 of the [WIPO Overview 3.0](#)).

Based on the above, the Panel finds that the second element of paragraph 4(a)(ii) of the Policy has been met by the Complainant.

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

The third element of paragraph 4(a) of the Policy requires a complainant to demonstrate that the respondent registered and is using the disputed domain name in bad faith. [WIPO Overview 3.0](#), section 3.1, states 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”.

Paragraph 4(b) of the Policy stipulates that any of the following circumstances, *inter alia*, shall be considered as evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that the respondent registered or 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 the respondent’s documented out-of-pocket costs directly related to the domain name; or
- (ii) circumstances indicating that the respondent 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 the respondent has engaged in a pattern of such conduct; or
- (iii) circumstances indicating that the respondent registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) circumstances indicating that the respondent is using the domain name to intentionally attempt 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 the respondent’s website or location or of a product or service on its website or location.

The registration of the Complainant’s EURONEXT mark predates the disputed domain name registration by at least eight years.

From the evidence presented by the Complainant regarding the webpage associated with the disputed domain name, it becomes evident that the Respondent had knowledge of the Complainant and their engagement in the financial services sector, particularly pertaining to the EURONEXT mark, at the time the disputed domain name was registered. Merging the EURONEXT mark with the term “rading” and when considered with the last letter “t” from EURONEXT, signifies “trading”, highlighting the Respondent’s reference to the Complainant’s financial services. The correlation between the disputed domain name and the Complainant’s EURONEXT mark with the Complainant’s main activity, indicates that the Respondent’s registration of the disputed domain name was in bad faith.

Concerning the use of the disputed domain name, it seems that the Respondent’s approach is aimed at causing confusion about its affiliation with the Complainant’s EURONEXT mark, which is evident as the disputed domain name directs users to a page showing the EURONEXT word mark and even its logo. The disputed domain name has been used to present cryptocurrency financial information and contains a form available for users to register. Past UDRP panels, as cited in the [WIPO Overview 3.0](#), section 3.4, have determined that using a domain name for illicit activities signifies bad faith. Based on the evidence, the Panel concludes that the Respondent’s actions, both in registration and use of the disputed domain name, are indicative of bad faith, consistent with the Policy.

The Panel concludes that the disputed domain name was registered and used in bad faith and that consequently, the Complainant has satisfied the requirement under 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 name, <euronextrading.com>, be transferred to the Complainant.

*/Petra Pecar/*

**Petra Pecar**

Sole Panelist

Date: September 13, 2023