

## **ADMINISTRATIVE PANEL DECISION**

Euronext N.V. v. Monoarul Islam Nadim  
Case No. D2023-5326

### **1. The Parties**

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

The Respondent is Monoarul Islam Nadim, Bangladesh.

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

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 22, 2023. On December 22, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 22, 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 (Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 26, 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 December 27, 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 notified the Respondent of the Complaint, and the proceedings commenced on January 8, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 28, 2024. The Respondent sent informal email communications to the Center on December 26 and 28, 2023. On December 28, 2023, the Center sent a possible settlement email. The Complainant did not request for a suspension of the proceedings.

The Center appointed Cherise Valles as the sole panelist in this matter on February 2, 2024. 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

Euronext provides pan-European market infrastructure, which connects European economies to global capital markets. It operates regulated exchanges in Belgium, France, Ireland, Italy, the Kingdom of the Netherlands, Norway and Portugal. It has close to 2,000 listed issuers and around EUR 5.7 trillion in market capitalization as of end September 2022 with a diverse domestic and international client base. Euronext operates regulated and transparent equity and derivatives markets, and one of Europe's leading electronic fixed income trading markets. It is the largest center for debt and funds listings in the world. Its total product offering includes Equities, FX, Exchange Traded Funds, Warrants & Certificates, Bonds, Derivatives, Commodities and Indices. The Group provides a multi-asset clearing house through Euronext Clearing, and custody and settlement services through Euronext Securities central securities depositories in Denmark, Italy, Norway and Portugal. Euronext also leverages its expertise in running markets by providing technology and managed services to third parties.

Euronext was founded by the merger of European Union (EU) stock exchanges at the turn of the 21st century, following the introduction of the single currency and harmonization of financial markets.

The Complainant has the following registered trademarks in EURONEXT:

Jurisdiction	Registration No.	Word mark	Classes	Filing date Registration date
European Union	013343629	EURONEXT	9, 35, 36, 38, 41 and 42	October 8, 2014 March 3, 2015;
United Kingdom	UK00913343629	EURONEXT	9, 35, 36, 38, 41 and 42	October 8, 2014 March 3, 2015
European Union	018070221	EURONEXT	9, 35, 38, 38, 41 and 42.	May 21, 2019 February 4, 2020
United Kingdom	UK00918070221	EURONEXT	9, 35, 38, 38, 41 and 42.	May 21, 2019 February 4, 2020
International for the United Kingdom, Norway, Russian Federation, Singapore and the United States of America	1506088	EURONEXT	9, 35, 38, 38, 41 and 42.	Filed and registered on May 22, 2019.

The Complainant also has the following registrations for device marks both registered November 5, 2012:

Jurisdiction	Registration No.	Device Mark
European Union	010891695	PULSE
United Kingdom	UK00910891695	PULSE

The disputed domain name was registered on November 24, 2023.

The disputed domain name is used to offer competing services in the field of financial services displaying the Complainant's trademark and logo.

## **5. Parties' Contentions**

### **A. Complainant**

The Complainant asserts that each of the elements enumerated in paragraph 4(a) of the Policy and the corresponding provisions in the Rules have been satisfied. In particular, the Complainant asserts that:

The disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights.

- The disputed domain name is confusingly similar to the Complainant's registered trademarks, in light of the fact that it wholly incorporates the Complainant's mark.

The Respondent lacks rights or legitimate interests in the disputed domain name.

- The Complainant states that the Respondent should be considered as having no rights or legitimate interests in the disputed domain name. The Complainant has never licensed or otherwise permitted the Respondent to use its trademarks or to register any domain name that included its trademarks.

The disputed domain name has been registered and is being used in bad faith.

- The Complainant asserts that the disputed domain name was registered and is being used in bad faith. The mere fact of registration of a domain name that is confusingly similar or identical to a famous trademark by an entity that has no relationship to that mark is itself evidence of bad faith registration and use.

The Complainant requests the Panel to issue a decision finding that the disputed domain name be transferred to the Complainant, in accordance with paragraph 4(i) of the Policy.

### **B. Respondent**

The Respondent did not reply to the Complainant's contentions. However, on December 26 and 28, 2023, the Respondent sent emails expressing that it will cancel the disputed domain name.

## **6. Discussion and Findings**

In terms of paragraph 4(a) of the Policy, for a Complain to succeed, the Complainant must prove each of the following 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 in bad faith.

The Respondent has failed to file a Response in this proceeding. The Panel may draw appropriate inferences from the available evidence submitted by the Complainant.

## A. Identical or Confusingly Similar

To prove this element, the Complainant must have relevant rights in a trademark and the disputed domain name must be identical or confusingly similar to such trademark.

The Complainant submits that the disputed domain name is confusingly similar to the trade mark in which it has rights. The disputed domain name is identical to the EURONEXT trademark with the addition of the Top-Level Domain (“TLD”) extension “live”. Given the Complainant’s trademark registration as detailed above, the Panel finds that the Complainant has established its trade mark rights in EURONEXT for the purposes of paragraph 4(a)(i) of the Policy.

As stated in section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), “[...] in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing”.

The addition of the TLD “live” to the Complainant’s EURONEXT trademark does not prevent a finding of confusing similarity and may be disregarded when comparing the disputed domain name and the Complainant’s trademark, because the Complainant’s EURONEXT trademark is still recognizable within the disputed domain name. See sections 1.7 and 1.11.1 of the [WIPO Overview 3.0](#).

In the light of the foregoing, the Panel finds that the disputed domain name is identical to the Complainant’s registered trademark and that the Complainant has met its burden with respect to paragraph 4(a)(i) of the Policy.

## B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets out a non-exhaustive set of circumstances, any of which, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate a respondent’s rights or legitimate interests to a domain name for the purposes of paragraph 4(a)(ii) of the Policy, namely:

- (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.”

The Respondent did not submit a Response or attempt to demonstrate any rights or legitimate interests in the disputed domain name, whether on the basis of the non-exhaustive examples set out in paragraph 4(c) of the Policy or on any other basis, and the Panel draws inferences from this failure, where appropriate, in accordance with paragraph 14(b) of the Rules.

It is recognised in cases under the Policy that it is sufficient for a complainant to make a prima facie case under the second element of the Policy, not rebutted by the respondent, that the respondent has no rights or legitimate interests in the domain name concerned upon which the burden of production of evidence shifts to the Respondent (see, for example, *Paris Saint-Germain Football v. Daniel Macias Barajas, International Camps Network*, WIPO Case No. [D2021-0019](#); *Spinrite Inc. v. WhoisGuard, Inc. / Gabriella Garlo*, WIPO Case No. [D2021-0012](#) and section 2.1 of the [WIPO Overview 3.0](#)). If a respondent fails to rebut such a prima facie case by demonstrating rights or legitimate interests in the disputed domain name in accordance with paragraph 4(c) of the Policy, or on any other basis, the complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

On the evidence before the Panel, it appears that there has never been any relationship between the Complainant and the Respondent. The Respondent does not seem to be licensed, or otherwise authorized, be it directly or indirectly, to register or use the Complainant's EURONEXT trademark in any manner, including in, or as part of, the disputed domain name. Specifically, the Respondent is not an authorized reseller of the Complainant and has not been authorized to register and use the disputed domain name.

The Complainant asserts that the Respondent is unable to invoke any of the circumstances set out in paragraph 4(c) of the Policy in order to demonstrate rights or legitimate interests in the disputed domain name. In particular, the Respondent cannot assert that, prior to any notice of this dispute, he was using, or had made demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services in accordance with paragraph 4(c)(i) of the Policy. Rather, the evidence presented illustrates that the Respondent sought to capitalize on the risk of implied affiliation shown in the composition of the disputed domain name being identical to the Complainant's EURONEXT trademark.

In light of the foregoing, the Panel finds that the Complainant has established an un rebutted prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name, and concludes that paragraph 4(a)(ii) of the Policy is satisfied.

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

For this element, the Complainant is required to prove that the disputed domain name was registered and that it was being used in bad faith. The term "bad faith" is "broadly understood to occur where a respondent takes unfair advantage of, or otherwise abuses, a complainant's mark". See section 3.1 of the [WIPO Overview 3.0](#). Paragraph 4(b) of the Policy sets out four non-exhaustive examples of circumstances which, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith, namely:

- (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 documented out-of-pocket costs directly related to the domain name; or
- (ii) the respondent has 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) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, the respondent 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 the respondent's website or location or of a product or service on its website or location.

In the present case, the Complainant's submissions relate to paragraph 4(b)(iv) of the Policy.

Previous UDRP panels have found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typographical errors or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. See section 3.1.4 of the [WIPO Overview 3.0](#).

The use of the disputed domain name, offering services in the same sector as the Complainant, while displaying the registered word mark EURONEXT and the registered device mark of the Complainant on the Respondent's website, demonstrates that the Respondent 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 websites.

The Respondent has not answered the Complainant's contentions. The fact that the Respondent has decided not to provide any legitimate explanation or to assert any alleged good faith motivation in respect of the registration or use of the disputed domain name in the face of the Complainant's contentions can be regarded as an indicator of registration and use in bad faith.

Accordingly, the Panel concludes that the Complainant has satisfied its burden of showing bad faith registration and use of the disputed domain name 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 <euronext.live> be transferred to the Complainant.

*/Cherise Valles/*

**Cherise Valles**

Sole Panelist

Date: February 16, 2024