

ADMINISTRATIVE PANEL DECISION

Euronext N.V. v. Miller Hemingway
Case No. D2024-3583

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 Miller Hemingway, Belgium.

2. The Domain Names and Registrar

The disputed domain names, <euronextais.com> and <euronextnvs.com>, are registered with PDR Ltd. d/b/a PublicDomainRegistry.com.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 4, 2024. On September 4, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On September 5, 2024, 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 (PDR Ltd. d/b/a PublicDomainRegistry.com) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 6, 2024, 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 September 9, 2024.

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 September 10, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 30, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 5, 2024.

The Center appointed Anna Carabelli as the sole panelist in this matter on October 14, 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

The Complainant is a pan-European stock exchange and market infrastructure based in the Netherlands (Kingdom of the). It operates regulated 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 on March 3, 2015;
- United Kingdom trademark registration No. UK00913343629 for word mark EURONEXT in Classes 9, 35, 36, 38, 41, and 42, registered on March 3, 2015;
- European Union trademark registration No. 018070221 for word mark EURONEXT in Classes 9, 35, 36, 38, 41, and 42, registered on 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;
- European Union trademark registration No. 018920609 for word mark EURONEXT in Classes 9, 35, 36, 38, 41, and 42, registered on February 23, 2024;
- International trademark 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 on May 22, 2019.

The disputed domain names were registered one day apart, i.e.: <eutonextnvs.com> on July 5, 2024, and <euronextais.com> on July 6, 2024.

The evidence in the Complaint is that they both resolve to a website in which the Complainant's mark and logo are reproduced in respect to financial services. At the time of this decision the disputed domain name <eutonextnvs.com> is inactive, while the disputed domain name <euronextais.com> links to a page displaying a bright red background with a white text warning that the site is deceptive and may trick Internet users into doing something dangerous like installing software or revealing personal information.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

Notably, the Complainant contends that:

- The disputed domain names are confusingly similar to its EURONEXT trademark;

- The Respondent has no rights or legitimate interests in respect of the disputed domain names, since (i) the Respondent is not commonly known by the disputed domain names and the Complainant has not authorized or somehow given consent to the Respondent to register and use the disputed domain names, and (ii) the Respondent's use of the disputed domain names is neither a bona fide offering of goods or services nor a legitimate noncommercial or fair use;

- The Respondent has registered and is using the disputed domain names in bad faith. The Respondent registered the disputed domain names having in mind the Complainant's EURONEXT trademark, with the clear intention to capitalize on the Complainant's market position and high reputation for commercial gain. Indeed, on the websites at the disputed domain names the Respondent is using the Complainant's EURONEXT mark and logo as well as images and other digital materials from the Complainant's official website, in the attempt to impersonate the Complainant.

Based on the above the Complainant requests the disputed domain names be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the panel to decide the complaint based on the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Under paragraph 4(a) of the Policy, the complainant must prove each of the following:

- (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.

Paragraph 4(b) of the Policy sets out four illustrative circumstances, which for the purposes of paragraph 4(a)(iii) of the Policy, shall be evidence of registration and use of a domain name in bad faith.

Paragraph 4(c) of the Policy sets out three illustrative circumstances any one of which, if proved by the respondent, shall be evidence of the respondent's rights to or legitimate interests in a disputed domain name for the purpose of paragraph 4(a)(ii) of the Policy above.

6.1. Procedural issues - Consolidation: Multiple Domain Names

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder. Circumstance which, in this case, is confirmed by the information on the underlying registrant disclosed by the Registrar.

Consolidation thus appears to be in line with the Rules and fair and equitable to all Parties.

6.2. Substantive issues

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or 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](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the Complainant's registered trademark EURONEXT is reproduced and recognizable within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The addition of the generic Top-Level Domain, such as ".com", is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

The addition of the suffixes "ais" (in <euronextais.com>) and "nvs" (in <euronextnvs.com>) does not avoid a finding of a confusing similarity on the present case. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise.

Moreover, as noted in Section 6.2(A) above, the disputed domain names incorporate the Complainant's EURONEXT mark in its entirety together with different non distinctive elements, which carries a risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1. The Panel further notes that as per the uncontested evidence submitted with the Complaint, the Respondent has used the disputed domain names to deliberately cause confusion among by Internet user by operating websites prominently displaying the Complainant's EURONEXT mark and logo in respect to financial services, as well as images and other digital materials from the Complainant's official website. This cannot constitute fair use.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, in the Panel's view it is difficult to believe that the Respondent did not have in mind the Complainant's mark when registering the disputed domain names. The fact that the Respondent has used the disputed domain names following registration, to resolve to a website which prominently features the Complainant's EURONEXT mark and logo, as well as images and other digital materials from the Complaint, establishes both the Respondent's actual knowledge of the Complainant's rights as at the date of registration of the disputed domain names and the Respondent's intention to take unfair advantage of those rights. Indeed, the Respondent has used the disputed domain names to capitalize on the goodwill of the Complainant's EURONEXT trademark, and has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website.

The above conduct constitutes bad faith registration and use of the disputed domain names under the Policy.

Current redirection of the domain name <euronextais.com> to a potentially site with malware, probably in connection with a fraudulent scheme, also constitutes bad faith use. [WIPO Overview 3.0](#), section 3.4.

The Panel finds that the Complainant has established the third element 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 <euronextais.com> and <euronextnvs.com> be transferred to the Complainant.

/Anna Carabelli/

Anna Carabelli

Sole Panelist

Date: October 18, 2024