

## **ADMINISTRATIVE PANEL DECISION**

Euronext N.V. v. Gnex Webmaster

Case No. D2023-0749

### **1. The Parties**

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

The Respondent is Gnex Webmaster, Nigeria.

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

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 20, 2023. On February 20, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On February 20, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the 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 February 21, 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 amended Complaint on February 28, 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 March 2, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 22, 2023. The Respondent did not submit any response by the due date. Accordingly, the Center notified the Respondent’s default on March 23, 2023. The Respondent sent an email communication on March 28, 2023.

The Center appointed Olga Zalomiy as the sole panelist in this matter on March 28, 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 pan-European stock exchange and market infrastructure. The Complainant owns several word and device trademark registrations, such as:

- the European Union registration No. 013343629 for the word mark EURONEXT, registered on March 3, 2015;
- the United Kingdom registration No. UK00913343629 for the word mark EURONEXT, registered on March 3, 2015;
- the European Union registration No. 018070221 for the word mark EURONEXT, registered on February 4, 2020;
- the United Kingdom registration No. UK00918070221 for word mark EURONEXT, registered on February 4, 2020; and
- the International registration No. 1506088 for the word mark EURONEXT registered on May 22, 2019.

The Respondent registered the Domain Name on December 28, 2022. At the time of the Complainant's submission, the Domain Name directed to a website that purported to look like it belonged to a Complainant's subsidiary or an affiliate. The website under the Domain Name prominently featured the Complainant's word and device trademarks as well as photographs and a video from the Complainant's official website. Currently, the Domain Name does not direct to any active website.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant's contentions can be summarized as follows:

The Complainant contends that it is the leading pan-European market infrastructure, connecting European economies to global capital markets. The Complainant asserts that the Domain Name is identical or confusingly similar to the Complainant's EURONEXT mark as the Domain Name incorporates the trademark in its entirety. The Complainant states that the addition of the descriptive word "[t]rade" in the Domain Name does nothing to dissipate confusion between the Domain Name and the Complainant's trademark. The Complainant contends that the generic Top-Level Domain ("gTLD") ".com" should not be taken in consideration when comparing the Domain Name to the Complainant's earlier trademark rights.

The Complainant claims that the Respondent has no rights or legitimate interests in the Domain Name because the Respondent is not commonly known by the Domain Name and has not been authorized to use the Complainant's EURONEXT trademark. The Complainant argues that the Respondent is not using the Domain Name with a *bona fide* intent. The Complainant alleges that the Respondent is not making a legitimate noncommercial or fair use of the Domain Name.

The Complainant contends that the Respondent registered the Domain Name in bad faith. The Complainant submits that the Respondent was aware of the Complainant's trademark at the time of registering the Domain Name registration for the following reasons: 1) the Complainant is well-known in the financial market, so the Respondent could and should have been aware of the Complainant's mark; and 2) the Respondent's use of the Complainant's word and device trademarks as well as Complainant's official photos and a Complainant's video. The Complainant argues that the Respondent registered the Domain Name to pose as a Complainant's subsidiary, to attract Internet users for commercial gain by intentionally infringing Complainant's exclusive rights.

## B. Respondent

The Respondent did not reply to the Complainant's contentions. The Respondent informally replied on March 28, 2023, stating that: "the issue has been resolved".

## 6. Discussion and Findings

Pursuant to paragraph 4(a) of the UDRP, to succeed in this proceeding, the Complainant must prove each of the following elements with respect to the Domain Name:

- (i) the 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 Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

### A. Identical or Confusingly Similar

Pursuant to paragraph 4(a)(i) of the UDRP, the Complainant must prove that the Domain Name is identical or confusingly similar to the trademark or service mark in which the Complainant has rights.

The submitted evidence shows that the Complainant owns several trademark registrations for the EURONEXT mark. Pursuant to section 1.2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), this satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case.

"Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element." Section 1.8, [WIPO Overview 3.0](#). It is well-established that the applicable gTLD should be disregarded under the confusingly similarity test as a standard registration requirement. Section 1.11.1, [WIPO Overview 3.0](#).

The Domain Name consists of the Complainant's EURONEXT mark, the word "[t]rade" and the gTLD ".com". Because the Complainant's EURONEXT mark is recognizable within the Domain Name, the addition of the word "[t]rade" does not prevent a finding of confusing similarity. The gTLD ".com" is disregarded as a standard registration requirement. Therefore, the Domain Name is confusingly similar to the Complainant's EURONEXT mark.

The Complainant has satisfied the first element of the UDRP.

### B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on the evidence, shall demonstrate a respondent's rights or legitimate interests to a domain name for the purposes of paragraph 4(a)(ii) of the Policy:

- (i) before any notice of the dispute, the respondent's 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) the respondent (as an individual, business, or other organization) has been commonly known by the domain name, even if the respondent has acquired no trademark or service mark rights; or

- (iii) the respondent is 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.

To succeed under the second UDRP element, the Complainant must make out a *prima facie case*<sup>1</sup> in respect of the lack of rights or legitimate interests of the Respondent.

The Panel finds that the Complainant satisfied its burden of production for the following reasons. First, it does not appear that the Respondent owns any trademarks corresponding to the Domain Name. Second, the Complainant did not authorize or license the Respondent's use of the Complainant's trademark in the Domain Name. Third, the Respondent's March 28, 2023, email taken together with the fact that the Respondent disabled the website under the Domain Name, indicates that the Respondent has no rights or legitimate interests in the Domain Name. Fourth, the Respondent has not been commonly known by the Domain Name. Fifth, the Respondent's use of the Domain Name does not satisfy requirements of *bona fide* offering of goods and services because the Domain Name used to resolve to a website designed to look like it belonged to an affiliate or a subsidiary of the Complainant. The website purportedly belonging to EURONEXT Trade prominently featured the Complainant's word and device trademarks as well as photographs and a video that was displayed on one of the Complainant's websites.

Based on the foregoing, the Panel finds that the Complainant has made out the *prima facie* case and the burden of producing evidence demonstrating it has rights or legitimate interests in the Domain Name has shifted to the Respondent.<sup>2</sup> Because the Respondent failed to present any rebutting evidence, the Complainant is deemed to have satisfied the second element of the UDRP.

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

Pursuant to paragraph 4(a)(iii) of the Policy, the Complainant must prove that the Domain Name was registered and is being used in bad faith.

The UDRP establishes that, for purposes of paragraph 4(a)(iii), "bad faith" registration and use of a domain name can be established by a showing of circumstances indicating that the respondent is using the domain name to intentionally attempt to attract, for commercial gain, Internet users to the respondent's website or other online location, by creating a likelihood of confusion with the complainant's mark as to source, sponsorship, affiliation or endorsement of the respondent's website or location, or of a product or service on the respondent's website or location. See Policy, paragraph 4(b)(iv). Prior UDRP panels have found "the following types of evidence to support a finding that a respondent has registered a domain name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the complainant's mark: ... (ii) seeking to cause confusion (including by technical means beyond the domain name itself) for the respondent's commercial benefit, even if unsuccessful, (iii) the lack of a respondent's own rights to or legitimate interests in a domain name, ... (vi) absence of any conceivable good faith use."

Given that the Respondent used the Complainant's word and device EURONEXT mark as well as the Complainant's photographs and a video on the website associated with the Domain Name, the Respondent could not plausibly assert that, in registering the Domain Name, which fully incorporates the EURONEXT trademark, it was not aware of the Complainant's rights in the EURONEXT mark.

Instead, it is likely that the Respondent registered the Domain Name to trade on the goodwill of the Complainant's trademark. Initially, the website at the Domain Name offered investment platform purportedly belonging to Euronext Trade. The design of website consisting of Complainant's photographs, the Complainant's video and the Complainant's word and design trademarks created an impression of association or affiliation with the Complainant. Therefore, the Panel concludes that the Respondent registered and is using the Domain Name to intentionally attempt to attract, for commercial gain, Internet

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<sup>1</sup> Section 2.1, [WIPO Overview 3.0](#).

<sup>2</sup> *Id.*

users to the Respondent's website or other online location, by creating a likelihood of confusion with the Complainant's mark as to source, sponsorship, affiliation or endorsement of the Respondent's website or location, or of a product or service on the Respondent's website or location.

The Panel finds that the Respondent's current non-use or passive holding of the Domain Name constitutes further evidence of the Respondent's bad faith. First, it is well-established that non-use of a domain name would not prevent finding of bad faith.<sup>3</sup> Second, the Respondent's failure to reply to the Complainant's contentions, its registration of the Domain Name incorporating the Complainant's distinctive trademark and the Respondent's prior bad-faith use of the Domain Name that makes any good faith use of the Domain Name implausible support finding of bad faith registration and use.

The Complainant has satisfied the third element of the UDRP.

## 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 Domain Name <euronextrade.com> be transferred to the Complainant.

*/Olga Zalomiy/*

**Olga Zalomiy**

Sole Panelist

Date: April 11, 2023

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<sup>3</sup> Section 3.3, [WIPO Overview 3.0](#).