

## **ADMINISTRATIVE PANEL DECISION**

Euronext N.V. v. alexandre berardi, NA  
Case No. D2022-3974

### **1. The Parties**

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

The Respondent is alexandre berardi, NA, France.

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

The disputed domain name <connect2-euronextcustomer-portaluser.com> is registered with OwnRegistrar, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 24, 2022 involving the disputed domain name and other two domain names. On October 24, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 24, 2022, 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 (WhoisSecure) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 31, 2022, 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 and requested removal of two domain names on November 4, 2022.

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 November 8, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 28, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 29, 2022.

The Center appointed Mihaela Maravela as the sole panelist in this matter on December 5, 2022. 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.

The language of the proceeding is English, being the language of the Registration Agreement, as per paragraph 11(a) of the Rules.

#### **4. Factual Background**

The Complainant is a pan-European stock exchange that offers trading and post-trade services such as clearing, custody and settlement, formed by the merger of European Union (“EU”) stock exchanges.

The Complainant is the exclusive owner of a number of registered trademarks consisting of EURONEXT, including the EU trademark No. 013343629 registered on March 3, 2015 for EURONEXT (word), or the International trademark No. 1506088 registered on May 22, 2019 for EURONEXT (word). The Complainant is also the owner of several trademark registrations for a figurative mark without text, consisting of multiple rectangles of varying lengths positioned side by side including the EU trademark No. 010891695 registered on November 5, 2012.

The disputed domain name was registered on October 8, 2021 and it resolves to a website where log in details with personal information are required.

#### **5. Parties’ Contentions**

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

The Complainant argues that the disputed domain name is identical, or at least highly similar, to its earlier trademark EURONEXT, which is included in the disputed domain name in addition to the elements “connect2”, “customer” and “portaluser” which are descriptive, as the webpage for which the disputed domain name is being used is a portal upon which customers can log on, *i.e.*, connect to.

As regards the second element, the Complainant argues that the Respondent has no rights or legitimate interests in the disputed domain name as the Respondent is not commonly known by the disputed domain name and has not been authorized to use the Complainant’s EURONEXT trademark. Furthermore, the Respondent is not using the disputed domain name with a *bona fide* intent and is not making a legitimate noncommercial or fair use of the disputed domain name.

With respect to the third element, the Complainant argues that the Respondent should have been aware of the Complainant’s trademarks given the renown of the Complainant and the fact that the website at the disputed domain name displays a logo identical to the Complainant’s registered device trademark. As regards the use, the Respondent has intentionally copied elements of the Complainant’s website to create the same look and feel to attract Internet users to the website at the disputed domain name. By using the disputed domain name in combination with the registered device trademark and the look and feel of the Complainant’s website, 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 trademarks as to the source, sponsorship, affiliation or endorsement of the Respondent’s website.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1. Preliminary Matters**

No communication has been received from the Respondent in this case. However, the Panel notes that the Complaint was notified in accordance with paragraph 2(a) of the Rules, the Panel therefore considers that this satisfies the requirement in paragraph 2(a) of the Rules to "employ reasonably available means calculated to achieve actual notice". Accordingly, the Panel considers it can proceed to determine the Complaint based on the statements and documents submitted by the Complainant as per paragraph 15(a) of the Rules and to draw inferences from the Respondent's failure to file any Response. While the Respondent's failure to file a Response does not automatically result in a decision in favor of the Complainant, the Panel may draw appropriate inferences from the Respondent's default.

The applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence", and the Panel can draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

### **6.2. Substantive Matters**

Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following elements:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name was registered and is being used in bad faith.

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

The Complainant has provided evidence of its rights in the EURONEXT trademarks. The trademark EURONEXT is reproduced in its entirety in the disputed domain name. The addition of "connect2-", "customer" and "-portaluser" does not prevent a finding of confusing similarity with the Complainant's trademark, which is recognizable in the disputed domain name. The fact that a domain name wholly incorporates a complainant's trademark is sufficient to establish identity or confusing similarity for the purpose of the Policy, despite the addition of other terms to such trademarks. The addition of an additional term (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity. See section 1.8 of the [WIPO Overview 3.0](#).

It is well accepted by UDRP panels that a generic Top-Level Domain ("gTLD"), such as ".com", is typically ignored when assessing whether a domain name is identical or confusing similar to a trademark. See section 1.11.1 of the [WIPO Overview 3.0](#).

This Panel concludes that the disputed domain name is confusingly similar to the Complainant's trademarks and therefore finds that the requirement of paragraph 4(a)(i) of the Policy is satisfied.

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

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

As established by previous UDRP panels, it is sufficient for the Complainant to make a *prima facie* case demonstrating that the Respondent has no rights or legitimate interests in the disputed domain name in order to place the burden of production on the Respondent (see section 2.1 of the [WIPO Overview 3.0](#)). In the present case, the Complainant has established a *prima facie* case that it holds rights over the trademark EURONEXT and claims that the Respondent has no legitimate reason to acquire and use the disputed domain name.

There is no evidence that the Respondent is using the disputed domain name in connection with a *bona fide* offering of goods or services, nor does the Respondent appear to engage in any legitimate noncommercial or fair use of the disputed domain name within the meaning of paragraphs 4(c)(i) and (iii) of the Policy. Rather, according to the unrebutted evidence of the Complainant, the website at the disputed domain name features the Complainant's logo and copies the look and feel of the customer portal log in page of the Complainant's website, while asking for personal information to log in, and such activity cannot amount to a fair use of the disputed domain name by the Respondent. Also, there is no evidence on record showing that the Respondent is commonly known by the disputed domain name within the meaning of paragraph 4(c)(ii) of the Policy. The Respondent has not replied to the Complainant's contentions, claiming any rights or legitimate interests in the disputed domain name.

Furthermore, the nature of the disputed domain name carries a risk of implied affiliation and cannot constitute a fair use as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See section 2.5.1 of the [WIPO Overview 3.0](#).

With the evidence on file, the Panel finds that the requirement of paragraph 4(a)(ii) of the Policy is satisfied.

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

To fulfill the third requirement of the Policy, the Complainant must prove that the disputed domain name was registered and is being used in bad faith.

According to the unrebutted evidence of the Complainant, its EURONEXT trademarks were registered before the registration of the disputed domain name in October 2021. The disputed domain name is confusingly similar to the Complainant's trademark and the website at the disputed domain name displays the Complainant's registered figurative trademark. Under these circumstances, it is most likely that the Respondent was aware of the Complainant's trademark at the registration date of the disputed domain name. The Respondent provided no explanations for why it registered the disputed domain name.

The Respondent is using the disputed domain name to resolve to a website requesting users to log in using personal information (email/username and password) while displaying the Complainant's logo. The Panel finds, on the balance of probabilities, that the Respondent has used the disputed domain name to take advantage of user confusion in order to obtain the emails/usernames and passwords of visitors who attempt to log into the Respondent's website under the impression that they are logging in to a website operated by the Complainant, presumably for commercial gain. Consequently, the Panel finds that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant and the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website (Policy, paragraph 4(b)(vi)).

In the Panel's view, these circumstances represent evidence of registration and use in bad faith of the disputed domain name. The Respondent failed to bring evidence to the contrary. Consequently, the Panel concludes that the condition of paragraph 4(a)(iii) of the Policy is fulfilled.

## 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 <connect2-uronextcustomer-portaluser.com> be transferred to the Complainant.

*/Mihaela Maravela/*

**Mihaela Maravela**

Sole Panelist

Date: December 19, 2022