

ADMINISTRATIVE PANEL DECISION

Euronext N.V. v. Jamil Siddique

Case No. D2023-5399

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 Jamil Siddique, Pakistan.

2. The Domain Name and Registrar

The disputed domain name <euronextltd.com> is registered with Hostinger Operations, UAB (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 29, 2023. On January 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 3, 2024, 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 (Domain Admin Privacy Protect, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 3, 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 January 4, 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 January 10, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 30, 2024. The Respondent sent informal email communications to the Center on January 3 and January 13, 2024. The Center sent an email to the Parties

on January 17, 2024 to inform them that pursuant to the Rules, paragraph 17, a UDRP proceeding (on request) may be suspended to implement a settlement agreement between the Parties. In the absence of a suspension request, the Center sent the Commencement of Panel Appointment Process on February 2, 2024.

The Center appointed Fabrizio Bedarida as the sole panelist in this matter on February 8, 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 is a leading pan-European market infrastructure, connecting European economies to global capital markets, to accelerate innovation and sustainable growth. It operates regulated exchanges in Belgium, France, Ireland, Italy, the Netherlands (Kingdom of the), Norway and Portugal. According to the Complainant, Euronext has close to 2,000 listed issuers and around EUR 5.7 trillion in market capitalization as of the end of September 2022.

The Complainant has numerous registrations for the EURONEXT trademark around the world. The Complainant is, inter alia, the owner of the following:

- European Union Trade mark registration number 013343629, for the EURONEXT (word) trademark registered on March 3, 2015;
- International Trademark registration number 1506088, designating the United Kingdom, Norway, Russian Federation, Singapore and the United States of America, for the EURONEXT trademark registered on May 22, 2019;
- European Union Trade mark registration number 018070221, for the EURONEXT (word) trademark registered on February 4, 2020;
- European Union Trade mark registration number 010891695, device trademark (a trademark without text, here referred to as the "Pulse" trademark) registered on November 5, 2012.

The disputed domain name was registered on November 2, 2023.

The disputed domain name is currently inactive. From the submissions provided by the Complainant, it appears that previously (at least on December 22, 2023) the Respondent used the disputed domain name for an unauthorized website offering services competing with those of the Complainant and presenting the Respondent as the Complainant's United Kingdom subsidiary, Euronext London, in London. In fact, the Respondent indicated the official address of the Complainant's subsidiary in London on its website without any authorization.

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 name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to the EURONEXT trademark, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and particularly that the Respondent registered and used the disputed domain name, which is now inactive,

for an unauthorized commercial website offering services competing with those offered by the Complainant, and impersonating the Complainant's subsidiary in London, or at least attempting to appear affiliated with the Complainant, for the sole purpose of attracting Internet users for commercial gain by intentionally infringing the Complainant's exclusive rights, and that this is a clear inference of bad faith use and registration of the disputed domain name.

B. Respondent

The Respondent did not reply formally to the Complainant's contentions, but has affirmed that it registered the disputed domain name on behalf of a client of its own, and has offered to delete the disputed domain name, in its communications filed with the Center on January 13, 2024.

In any event, the correspondence with the Respondent makes clear that the Respondent does not raise any valid defence against the Complaint.

6. Discussion and Findings

In order for the Complainant to obtain a transfer of the disputed domain name, paragraph 4(a) of the Policy requires that the Complainant must demonstrate to the Panel that:

- (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.

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 entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, "ltd", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [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 name. 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 name such as those enumerated in the Policy or otherwise.

In fact, the Respondent, in its informal emails to the Center, did not reply to the Complainant's contentions to deny these or to claim any rights to the disputed domain name, but only to state that he was willing to cancel the disputed domain name.

Panels have held that the use of a domain name for illegal activity, here claimed as impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Panel notes that the Respondent was aware of the Complainant's trademark registrations and rights to the EURONEXT trademark when it registered the disputed domain name.

The disputed domain name contains in its entirety, without any authorization or approval, the Complainant's registered EURONEXT trademark, and this is the only distinctive component of the disputed domain name. The fact that the Respondent was aware of the Complainant, and of the Complainant's trademarks, is also evident from the fact that the Respondent on the website pointed to by the disputed domain name was using the Complainant's EURONEXT word trademark, the Complainant's device trademark (the "Pulse" trademark), as well as the official address of the Complainant's subsidiary in London.

The disputed domain name was registered many years after the Complainant's trademark was registered and was being used to offer services in direct competition with those of the Complainant.

Indeed, the Respondent's previous use of the disputed domain name to resolve to an unauthorized commercial website offering services competing with those offered by the Complainant, and impersonating the Complainant's subsidiary in London, United Kingdom or at least attempting to appear affiliated with the Complainant, for the sole purpose of attracting Internet users for commercial gain amounts to bad faith use and registration of the disputed domain name.

Furthermore, the Respondent's failure to respond formally to the Complainant's allegations made in this proceeding regarding its bad faith in registering and using the disputed domain name, combined with the Respondent's informal communications that he was willing to cancel the disputed domain name can be seen as further indication of bad faith.

Panels have held that the use of a domain name for illegal activity, here, claimed as impersonation/passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The disputed domain name is currently inactive. Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant's trademark, the composition of the disputed domain name, the previous use of the disputed domain name passing off as a subsidiary of the Complainant, and finds that in the circumstances of this case the current passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

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 name <euronextltd.com> be transferred to the Complainant.

/Fabrizio Bedarida/

Fabrizio Bedarida

Sole Panelist

Date: February 21, 2024