

Decision for dispute CAC-UDRP-104124

Case number CAC-UDRP-104124

Time of filing 2021-11-03 09:44:58

Domain names eurexprime.com

Case administrator

Organization Denisa Bilík (CAC) (Case admin)

Complainant

Organization Deutsche Börse AG

Complainant representative

Organization Grünecker Patent und Rechtsanwälte PartG mbB

Respondent

Name Max Vatan

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is one of the leading market place organizers for financial services, particularly trading in shares and other securities worldwide. Moreover, the Complainant is a transaction service provider, which affords international companies and investors access to global capital markets by means of advanced technology. Its product and service portfolio covers the entire process chain from order input to custody of shares and derivatives.

Deutsche Börse Group has customers in Europe, the USA and Asia, who are serviced by more than 9.000 employees at locations in Germany, Luxemburg, Switzerland and the USA, as well as at representative offices in London, Paris, Chicago, New York, Hong Kong, Dubai, Moscow, Beijing, Tokyo and Singapore. In Germany, the Complainant is the leading company in its field of business.

FACTUAL BACKGROUND

The disputed domain name is confusingly similar to the Complainant's "EUREX" trademarks and domain names. The disputed domain name contains the EUREX Trademark in its entirety. In addition, it contains the further element "prime", which is a commonly used term in the financial sector to describe high quality financial products, complying with the highest

standards associated with lower risks, see for example the description on the Complainant's website on the "Prime Standard".

It is a well-established principle that descriptive or generic additions to a trademark, and particularly those that designate the goods or services with which the mark is used, do not avoid confusing similarity of domain names and trademarks (as held in, inter alia, Time Warner Entertainment Company L.P. v. HarperStephens, WIPO Case No. D2000-1254, concerning over 100 domain names including <harrypotterfilms.net>).

The website available under the disputed domain name prominently uses a "EX eurexprime" logo, which is confusingly similar to the Complainant's EX eurex trademark registrations, e.g. EUTM No. 758938 EUREX (and design), EUTM No. 8734063 EX Eurex Group (and design), EUTM No. 8734171 EX Eurex Derivatives (and design), - EUTM No. 8734303 EX Eurex Repo (and design), EUTM No. 8734361 EX Eurex Bonds (and design), EUTM No. 8742843 EX Eurex Clearing (and design).

The website lists also numerous entities that are allegedly operating the EUREX service.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

The Complainant states that the disputed domain name <eurexprime.com> is confusingly similar to its different trademarks and domain names.

Indeed, the addition of letters "prime" in the disputed domain name is not sufficient to avoid the likelihood of confusion with the Complainant's trademark. The addition of these letters constitutes an obvious misspelling of the Complainant's trademarks and is characteristic of a typosquatting practice intended to create confusing similarity between the Complainant's trademark and the disputed domain name.

Therefore, the disputed domain name is "confusingly similar" to a mark in which the Complainant has established rights within the meaning of the Policy.

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

The Respondent, respectively the entities mentioned on the websites as providing the services, have never been authorized or otherwise been licensed or permitted by the Complainant to use any of its trademarks.

The Respondent is also not affiliated in any way with the Complainant.

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

Given the distinctiveness of the trademark and the content of the website, it is clear that the Respondent registered the disputed domain name in knowledge of the Complainant and its trademarks.

Finally, not only by using the trademark EUREX as distinctive element of the disputed domain name together with the descriptive element <prime> referring to the allegedly high quality of Respondent's services, but also by using the EUREX logo the Respondent implies an affiliation with the Complainant that does actually not exist. This can only have the purpose

to benefit from the Complainant's reputation as a trustworthy provider of financial services.

All these elements lead to the conclusion that the Respondent has intentionally attempted to attract Internet users to the Respondent's website for commercial gain by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of such websites.

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

1. The three essential issues under the paragraph 4(a) of the Policy are whether:

- 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 with respect to the disputed domain name; and
- iii. the disputed domain name has been registered and is being used in bad faith.

2. The Panel reviewed carefully all documents provided by the Complainant. The Respondent did not provide the Panel with any documents or statements. The Panel also visited all available websites and public information concerning the disputed domain name, namely the WHOIS databases.

3. The UDRP Rules clearly say in its Article 3 that any person or entity may initiate an administrative proceeding by submitting a complaint in accordance with the Policy and these Rules.

4. The Panel therefore came to the following conclusions:

a) The Complainant has clearly proven that it is a long standing and successful company in the financial services. It is clear that its trademarks and domain names "eurex" are well-known.

The Complainant states that the disputed domain name is confusingly similar to its trademark. Indeed, the trademark is incorporated in its entirety in the disputed domain name. Change of two characters in it is not distinctive enough.

The disputed domain name is therefore deemed identical or confusingly similar.

b) It has to be stressed that it was proven that there are no fair rights of the Respondent to the disputed domain name. The Respondent is not generally known by the disputed domain name, and has not acquired any trademark or service mark rights in the name or mark.

The Panel therefore finds that the Respondent does not have rights or legitimate interest with respect to the disputed domain name.

c) The disputed domain name was registered with an intention to attract customers of another well-known domain name/registered trademark holder. Therefore, there cannot be seen any legitimate interest of the Respondent.

It is clear that the Complainant's trademarks and website(s) were used by the Complainant long time before the disputed domain name was registered and used. It is therefore concluded that the disputed domain name was registered with an intention to attract customers of another well-known domain name/registered trademark holder.

The Panel therefore finds that the disputed domain name has been registered and is being used in bad faith. For the reasons stated above, it is the decision of this Panel that the Complainant has satisfied all three elements of paragraph 4(a) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. EUREXPRIME.COM: Transferred

PANELLISTS

Name	Dr. Vít Horáček
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DATE OF PANEL DECISION 2021-12-08

Publish the Decision
