Decision for dispute CAC-UDRP-105674

Case number	**CAC-UDRP-105674**
Time of filing	**2023-08-02 13:26:32**
Domain names	**eurex-jp.com**

Case administrator

Organization	**Iveta Špiclová (Czech Arbitration Court) (Case admin)**

Complainant

Organization	**Deutsche Börse AG**

Complainant representative

Organization	**Grünecker Patent und Rechtsanwälte PartG mbB**

Respondent

Name	**Hai Wang**

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 the registered proprietor of a numerous trademark registrations (both word and combined word and design marks) for the trademark EUREX in many jurisdictions around the world, including the following:

- German Registration No. 30309064 EUREX with priority 19 February 2003 for classes 35, 36, 39, 41, 42;

- German Registration No. 39756930 EUREX (and design) with priority 27 November 1997 for classes 9, 16, 35, 36, 38, 42;

- International Registration No. 635015 EUREX for BY-CH-LI-MC-SM-UA with priority of 5 December 1994 and for classses 09, 35, 36, 42 and for classes 9, 16, 35, 36, 38, 41, 42;

- International Registration No. 812147 Eurex for AU-JP-KR-NO-SG-TR-BY-CH-HR-LI-RU-UA-SG with priority of 24 April 2003 and for classes 09, 16, 35, 36, 38, 41, 42;

- International Registration No. 812154 eurex (&device) for P, UA, BY, RU, CH, KR, SG, AU, LI, HR, TR, NO with priority of 28 July 2003 for classes 9, 16, 35, 36, 38, 41, 42;

- EUTM No. 744763 EUREX with priority 13 February 1998 for classes 9, 16, 35, 36, 38, 42;

- EUTM No. 3378973 EUREX US with priority 21 March 2005 for classes 9, 16, 35, 36, 38, 41, 42;

- US registration No. 2941068 EUREX with priority 10 May 2002 for classes 9, 16, 36;

- UK registration No. 900744763 EUREX with priority 13 February 1998 for classes 9, 16, 35, 36, 38, 42;

- CN registration no 5591453 EUREX with priority 7 September 2006 for class 36;

- MY registration No. 06018304 EUREX with priority 6 October 2006 for class 36; and

- IN registration No. 1500199 Eurex with priority 1 November 2006 for classes 9, 16, 35, 36, 42.

FACTUAL BACKGROUND

The Complainant is Deutsche Börse AG, one of the leading market place organizers for financial services, particularly trading in shares and other securities worldwide. The Complainant is a transaction service provider, which affords international companies and investors access to global capital markets by means of advanced technology. Deutsche Börse Group has customers in Europe, the USA and Asia, who are serviced by more than 10.000 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, Complainant also operating the Frankfurt stock exchange is the leading company in its field of business.

Among others, Deutsche Börse Group organizes one of the world's largest derivative markets under the trademark EUREX and operates one of the world's leading clearing houses with EUREX CLEARING. In the area of securities financing, it further operates EUREX REPO.

The EUREX Group is made up of the following companies in the derivatives business with representative offices around the world:

- EUREX Frankfurt AG – a leading global derivatives exchange trading, amongst other products and services offering the most liquid EUR-denominated equity index and fixed income derivatives;
- EUREX CLEARING – one of the leading CCPs (CENTRAL COUNTERPARTIES) globally assuring the safety and integrity of markets while providing innovation and risk management, clearing technology and client asset production;
- EUREX REPO – a leading European market place for international secured funding and financing; and
- EUREX Securities Transactions Services GmbH.

Since its inception in 1998, EUREX has continuously set a proven track record in electronic trading and clearing and is providing efficient liquidity pools. Having quickly become an integral part of the global derivatives market, EUREX has closed with record volumes of traded contracts almost every year. EUREX, the futures and options exchange, is one of the world's largest international market organizers for the trading of futures and options on equities and equity indices, as well as of interest rate derivatives. Today, around 370 market participants in 33 countries are connected to the EUREX trading system. More than 7,000 traders are registered with EUREX.

The disputed domain name was registered on 4 May 2023. Under the disputed domain name, the Respondent appears to operate a trading platform which allows users to buy or sell crypto currencies. The website prominently displays the protected EUREX logo of the Complainant.

PARTIES CONTENTIONS

The Complainant submits that the requirements of the Policy have been met and that the disputed domain name should be transferred to it. The Complainant makes a number of legal arguments (referenced below) and also supplies a set of annexes providing evidence of its activities and of the Respondent's use of the disputed domain name.

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).

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).

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).

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

According to Paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements to obtain an order that the disputed domain name should be transferred or cancelled:

(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.

The Panel has examined the evidence available to it and has come to the following conclusion concerning the three elements of paragraph 4(a) of the Policy in these proceedings:

RIGHTS AND SIMILARITY

The Complainant has established rights in the name EUREX. The disputed domain name <EUREX-JP.COM> is found to be confusingly similar to the Complainant's trademarks. This finding is based on the settled practice in evaluating the existence of a likelihood of confusion of:
a) disregarding the top-level suffix in the domain names (i.e. ".com") in the comparison; and
b) finding that the simple combination of a trademark and a generic, widely recognised country abbreviation such as "jp" for Japan, or the addition of a hyphen between the distinctive trademark and the nondistinctive generic element would by no means be sufficient to distinguish a domain name from a trademark.

The disputed domain name is therefore found to be confusingly similar to the earlier rights in the name EUREX and the Panel concludes that the Complainant has satisfied the requirement under paragraph 4(a)(i) of the Policy.

NO RIGHTS OR LEGITIMATE INTERESTS

The onus to make out a prima facie case that the Respondent lacks rights or legitimate interests is placed on the Complainant. However, once such a prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the disputed domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

In the absence of a statement from the Respondent, there are no arguments or facts which could support any rights or legitimate interests in the disputed domain name. The Complainant and the Respondent have no previous relationship, nor has the Complainant ever granted the Respondent any rights or license to use the EUREX trademark in any form, including in the disputed domain name.

The Respondent never appears to have been known or acted as "EUREX". The registration of the distinctive mark within the disputed domain name leads to the conclusion that the only reason for the registration of the disputed domain name was to take advantage of the Complainant's goodwill and valuable reputation. No other logical or reasonable conclusion can be seriously considered. Nothing about the use being made of the disputed domain name suggests legitimate non-commercial or fair use.

The Panel therefore concludes that the Respondent did not refute the Complainant's prima facie case and has not established any rights or legitimate interest in the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy). The Complainant has therefore also satisfied the requirement under paragraph 4(a)(ii) of the Policy.

BAD FAITH

The Panel finds that the Complainant has established that the disputed domain name was registered by the Respondent and is being used by the Respondent in bad faith.

The Respondent is making use of the disputed domain names in bad faith for fraudulent purposes by using the registered trademark

and logo of the Complainant to attract customers to an apparent financial trading platform dealing in crypto currency. During the registration process, the Complainant has used address details which are obviously incorrect (stating both the city and the street to be: "dnqj" and the state and postal code to be: "123123").

Based on the use made of the disputed domain name, the sole possible conclusion is that the only feasible explanation for registering a combination of the trademark of the Complainant together with a generic term as a domain name is the Respondent's actual knowledge of the Complainant's EUREX brand before and at the time of the registration. Since this use also includes the Complainant's protected logo, there is no plausible reason that the Respondent could have had for registering the disputed domain name in good faith or without knowledge of the earlier rights.

The disputed domain name was registered using false contact details with the sole purpose of creating an association with the Complainant and to use such an association to attract customers while at the same time tarnishing the Complainant's reputation.

The Panel therefore concludes that the Respondent has registered and is using the disputed domain name in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy). The Complainant has therefore also satisfied the requirement under paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **eurex-jp.com**: Transferred

PANELLISTS

Name	**Udo Pfleghar**

DATE OF PANEL DECISION 2023-09-11

Publish the Decision