Decision for dispute CAC-UDRP-106040

Case number	CAC-UDRP-106040
Time of filing	2023-12-06 09:49:14
Domain names	EureXq.com, EurExw.com, EurexTrade.pro, Eurex777.com, EureX-888.top

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Deutsche Börse AG

Complainant representative

Organization	Grünecker Patent und Rechtsanwälte PartG mbB

Respondents

Organization	ke ji chuang xin
Organization	Tivia Media
Name	jung nam kim

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 names.

IDENTIFICATION OF RIGHTS

According to the evidence submitted by Complainant, Complainant is the owner of the following trademarks:

- International Trademark EUREX, No. 635015 with registration date 5 December 1994;
- European Union Trademark EUREX, No. 744763 with registration date 8 June 1999.

FACTUAL BACKGROUND

According to the information provided the disputed domain names: <eurexq.com>, <eurexw.com>, <eurextrade.pro>, <eurex777.com> and <eurex-888.top> were registered on various dates in 2023.

PARTIES CONTENTIONS

COMPLAINANT:

According to the evidence submitted by Complainant, Complainant is one of the leading market place organizers for financial services, particularly trading in shares and other securities worldwide. Moreover, 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. Complainant 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 is also operating the Frankfurt stock exchange

Complainant requests consolidation of all disputed domain names. Already the timing clearly indicates that the registrations are connected. Moreover, the structural similarities of the disputed domain names, all containing Complainant's famous EUREX mark in its entirety as the distinctive element plus a further generic or descriptive element confirms that these disputed domain names are subject to a common control. Finally, the disputed domain names are part of a series of similar domain registrations all containing EUREX as the distinctive element. Allegedly, registered by a plethora of different persons across the globe, whereby address data is regularly incomplete or evidently incorrect, they all share in addition to Complainant's famous EUREX mark as their common sole distinctive element a common purpose i.e. that of creating the incorrect impression that the alleged "investment platforms" for digital currencies regularly appearing under those domains are operated or at least connected with Complainant's EUREX trading platform.

Complainant submits that the disputed domain names are confusingly similar to Complainant's famous EUREX trademark. The disputed domain names all contain the EUREX trademark in its entirety. According to Complainant the further elements "q" and "w", contained in two of the disputed domain names, will not be noticed by the average internet user; the further element "trade" contained in one of the disputed domain names will be considered as a descriptive reference to Complainant's field of business. Also, the numbers "777" respectively "-888" added to two of the disputed domain names will be considered as generic by internet users.

According to Complainant, Respondent has no rights or legitimate interest in the disputed domain names. Respondent has never been authorized or otherwise been licensed or permitted by Complainant to use any of its trademarks. Respondent is also not affiliated in any way with Complainant.

Complainant submits in particular that under the disputed domain names <eurexq.com> and <eurexw.com> Respondent operates a trading platform that allows users to trade inter alia crypto currencies. Moreover, the top left of the websites under the disputed domain names contains Complainant's authentic EUREX "EX" logo in the design of Complainant's authentic website at "www.eurex.com". Respondent is clearly trying to impersonate Complainant. Respondent claims an affiliation that does actually not exist. With this reference to Complainant Respondent wants to create the incorrect impression that its services are trustworthy (which they are certainly not), so that internet users transfer (and consequently loose) their funds.

Complainant also submits that under the disputed domain names <eurex777.com> and <eurex-888.top> the website that was available displayed EUREX in Korean characters under the slanted "E" logo and requested login data. As described above, the slanted "E" logo had also been used previously in connection with a scam crypto currency trading platform. Given Respondent's connection (as it displays the same email address) with the prior Korean language website offering software/services for stock trading solutions, it has to be assumed that these two disputed domain names were registered again for the same fraudulent purposes, which cannot confer rights or legitimate interests to Respondent.

According to Complainant the disputed domain names are registered and are being used in bad faith.

Complainant submits that Respondent controlling the disputed domain names <eurexq.com> and <eurexw.com> is allegedly providing a trading platform for digital currencies. In fact, neither contact details are provided nor is there any reference to a competent financial regulation authority. It is therefore apparent that this is certainly not a trustworthy trading platform, but a scam that is deliberately using Complainant's famous EUREX mark to benefit from Complainant's reputation as a trustworthy and reliable provider of financial services. Accordingly, the scam site asks users to login in using not only the famous EUREX mark, but also the "EX" logo. It is evident that by registering and using these disputed domain names Respondent has intentionally attempted to attract, for commercial gain, Internet users by creating a deliberate likelihood of confusion with Complainant's marks as to the source, sponsorship, affiliation or endorsement of Respondents' websites or of a product or service on Respondents' websites or location.

Even if the disputed domain name <eurextrade.pro> is currently not yet actively used, the timing of the registration confirms that it was registered in advance to replace or supplement other EUREX formative domain names, should that domain name become unavailable for the criminal purposes pursued.

Complainant asserts that already by registering the disputed domain names <eurex777.com> and <eurex-888.top> Respondent creates the incorrect impression that at least a connection with Complainant exists. It is evident that by registering and using these two disputed domain Respondent has intentionally attempted to attract, for commercial gain, Internet users by creating a deliberate likelihood of confusion with the Complainant's marks as to the source, sponsorship, affiliation or endorsement of Respondents' websites or of a product or service on Respondents' websites or location.

RESPONDENT:

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

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

NO RIGHTS OR LEGITIMATE INTERESTS

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

BAD FAITH

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

PROCEDURAL FACTORS

The Panel decides in accordance with paragraph 10 (e) of the UDRP Rules to consolidate the multiple domain name disputes. According to WIPO Overview 3.0, section 4.11.2, consolidation is in order in situations in which the domain names are subject to common control and the consolidation would be fair and equitable and procedurally efficient to all parties. The Panel notes in this respect the following. According to the undisputed submission of Complainant there are structural similarities of the disputed domain names, all containing Complainant's well-known EUREX mark in its entirety as the distinctive element plus a further generic or descriptive element. Respondents did not react to Complainant’s request for consolidation. The Panel thus concludes that on the balance of probabilities it is likely that the disputed domain names are under common control and that consolidation is in order, also in view of the fact that it is equitable and procedurally efficient to allow consolidation. In this decision all Respondents are referred to as “Respondent”.

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

In the opinion of the Panel the disputed domain names are confusingly similar to Complainant's EUREX trademark. Many UDRP decisions have found that a disputed domain name is identical or confusingly similar to a complainant’s trademark where the relevant trademark is recognizable within the disputed domain name. Complainant has established that it is the owner of trademark registrations for EUREX. The disputed domain names incorporate the entirety of the well-known EUREX trademark as its distinctive element. The addition of the various descriptive and generic terms is insufficient to avoid a finding of confusing similarity. The Top-Level Domains (“gTLD”) “.com” and “.top” in the disputed domain names may be disregarded.
The Panel notes that Complainant’s registration of its trademark predates the creation date of the disputed domain names.

In the opinion of the Panel Complainant has made a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain names. Complainant has not licensed or otherwise permitted Respondent to use its trademark or to register the disputed domain names incorporating its mark. Respondent is not making a legitimate noncommercial or fair use of the disputed domain names without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark of Complainant. Respondent is not commonly known by the disputed domain names nor has it acquired trademark rights. Complainant has no relationship with Respondent.

In addition Complainant has demonstrated that the disputed domain names are part of an illegal scam in order to defraud users trading crypto currencies which does not represent a bona offering of goods or services. Respondent did not submit any response. Under these circumstances, the Panel finds that Respondent has no rights or legitimate interests in the disputed domain name.

The Panel finds that the disputed domain names have been registered and are being used in bad faith. Complainant has rights in the EUREX trademark. Respondent knew or should have known that the disputed domain names include Complainant's well-known mark. The Panel also notes the undisputed submission of Complainant that the disputed domain names have been used or are (potentially) being used in an illegal scam which indicates that Respondent registered and uses the disputed domain names with the intention to attract, for commercial gain, Internet users to the websites by creating a likelihood of confusion with the trademark of Complainant as to the source, sponsorship, affiliation, or endorsement of its website or location or of a service on its website or location, which constitutes registration and use in bad faith pursuant to paragraph 4(b)(iv) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **EureXq.com**: Transferred
2. **EurExw.com**: Transferred
3. **EurexTrade.pro**: Transferred
4. **Eurex777.com**: Transferred
5. **EureX-888.top**: Transferred

PANELLISTS

Name	**Dinant T.L. Oosterbaan**

DATE OF PANEL DECISION 2024-01-04

Publish the Decision