Decision for dispute CAC-UDRP-106042

Case number	CAC-UDRP-106042
Time of filing	2024-02-13 11:05:21
Domain names	XeTra-pl.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Deutsche Börse AG

Complainant representative

Organization	Grünecker Patent und Rechtsanwälte PartG mbB

Respondent

Organization	1337 Services LLC

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, inter alia, the owner of EU trademark registration no. 000530469 "XETRA", registered on December 14, 1998, in classes 9, 16, 36, 38, and 42 (hereinafter referred to as the "Trademark"). The Trademark predates the registration date of the disputed domain name.

FACTUAL BACKGROUND

The Complainant is one of the world's leading marketplace operators for financial services, in particular trading in shares and other securities. The Complainant also operates the Frankfurt Stock Exchange (“Börse Frankfurt”). Deutsche Börse Group has customers in Europe, the United States and Asia, served by more than 9,000 employees at locations in Germany, Luxembourg, Switzerland and the United States, as well as representative offices in London, Paris, Chicago, New York, Hong Kong, Dubai, Moscow, Beijing, Tokyo and Singapore.

In 1997, the Complainant introduced its fully electronic trading system, XETRA, and floor trading was converted to XETRA in 2011. In 2022, more than 90 percent of all share trading on German stock exchanges was conducted via the XETRA trading system, which corresponds to a monthly trading volume of approximately 150 billion euros. XETRA also trades Exchange Traded Notes (ETNs), which give investors easy access to the performance of cryptocurrencies such as bitcoin, ethereum and polkadot. Complainant provides information online at, among other places, <xetra.com>.

The disputed domain name was registered on December 1, 2023 and is used in connection with a website linked to a cryptocurrency-based investment platform, which also includes the Complainant's registered colorful XETRA logo and the Complainant's address.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant alleges that the disputed domain name is confusingly similar to the Trademark because it contains the Trademark in its entirety and argues that the additional element “pl" is the country code for Poland and is not sufficient to distinguish the disputed domain name from the Trademark.

In addition, the Complainant argues that the Respondent has no rights or legitimate interests in the disputed domain name. In particular, the Complainant alleges that the website at the disputed domain name contains the Complainant's registered colorful XETRA logo and the Complainant's address without authorization, that the Complainant has no relationship whatsoever with the Respondent, and that the Respondent is attempting to impersonate the Complainant.

Finally, the Complainant alleges that the disputed domain name was registered and is being used in bad faith. It argues that the Respondent is attempting to create a false impression that the trading platform is operated by the Complainant, and that it is apparent that by registering and using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users by creating a deliberate likelihood of confusion with the Complainant's famous Trademark as to the source, sponsorship, affiliation or endorsement of the Respondent's website or of a product or service on the Respondent's website or location.

RESPONDENT:

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

Paragraph 4(a) of the Policy requires the Complainant to establish each of the following three elements:

(i) the disputed domain names are identical or confusingly similar to the Complainant's trademark; and
(ii) the Respondent has no rights or legitimate interests in respect of the disputed domain names; and
(iii) the disputed domain names have been registered and are being used in bad faith.

1. The Panel accepts that the disputed domain name is confusingly similar to the Trademark because the Trademark is

recognizable in the disputed domain name. It is well established that a domain name that fully incorporates a trademark may be confusingly similar to such a trademark within the meaning of the Policy despite the addition of generic terms or geographic identifiers such as "pl".

2. The Complainant has substantiated that the Respondent has no rights or legitimate interests in the disputed domain name. The Panel finds that the Complainant has satisfied its obligations under paragraph 4(a)(ii) of the Policy. The Respondent has not denied these allegations and has therefore failed to establish any rights or legitimate interests in the disputed domain name.

Based on the evidence on file, the Panel cannot find any rights or legitimate interests of the Respondent either. In particular, the Panel finds that the Respondent's website does not meet the Oki Data criteria because, at a minimum, the Respondent has not disclosed its complete lack of relationship or connection to the Complainant but rather prominently displays the registered colorful XETRA logo and the Complainant's address without authorization, creating the false impression that the website was at least authorized by the Complainant. Accordingly, the Panel finds that the Complainant has established that the Respondent has no rights or legitimate interests in respect of the disputed domain names under paragraphs 4(a)(ii) and 4(c) of the Policy.

3. The Panel is also satisfied that the Respondent registered the disputed domain name with full knowledge of the Complainant and its rights in the Trademark, as the Respondent uses the disputed domain name to direct Internet users to a website containing the Complainant's registered colorful XETRA logo.

As to bad faith use, by using the disputed domain name in connection with a website mentioned above, the Respondent was, in all likelihood, trying to divert traffic intended for the Complainant’s website to its own for commercial gain as set out under 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. **XeTra-pl.com**: Transferred

PANELLISTS

Name	**Peter Müller**

DATE OF PANEL DECISION 2024-03-16

Publish the Decision