Decision for dispute CAC-UDRP-106150

Case number	**CAC-UDRP-106150**
Time of filing	**2024-02-13 08:01:32**
Domain names	**eurexglobal.site**

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	**skyweb link**

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 owner of various registrations for the trademark EUREX, among which the following:

- EUREX, European Union registration No. 744763, registered on 8 June 1999, for goods and services in classes 9, 16, 35, 36, 38 and 42;
- EUREX US, European Union registration No. 3378973, registered on 13 June 2005, for goods and services in classes 9, 16, 35, 36, 38, 41 and 42.

FACTUAL BACKGROUND

The Complainant is a global company established in 1992 with registered offices in Germany. The Complainant is the parent company of Deutsche Börse Group, which, in turn, is the parent company of various subsidiaries, some of which including the term "Eurex" in their company name, such as Eurex Global Derivates AG, Eurex Frankfurt AG, Eurex Clearing AG, Eurex Securities Transactions Services GmbH, Eurex Repo GmbH.

As of 31 December 2022, the Complainant's group employed 11,078 people in 55 locations worldwide. The Complainant's business areas cover the entire financial market transaction process chain. This includes the provision of investment management solutions, indices and data, as well as admission, trading and clearing. It also includes services for funds, the settlement and custody of

financial instruments as well as the management of collateral and liquidity. Moreover, the Complainant develops IT solutions and operates IT systems all over the world. Among others, the Complainant's subsidiary, Deutsche Börse Group, organizes a derivative market named EUREX and operates a clearing house under the name "Eurex Clearing". In the area of securities financing, it further operates "Eurex Repo", a European market place of international secured funding and financing.

The disputed domain name was registered on 11 January 2024 and leads to a website apparently run by a UK entity named "EurexBank", prominently showing a corresponding figurative trademark and a copyright notice "@2020 European Express". The website promotes financial services, in particular in the area of trade finance, financial support for importers, foreign workers and a EUREXBANK credit card. The Respondent is located in Malta.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

The Complainant maintains that the disputed domain name is confusingly similar to the Complainant's mark as it includes it in its entirety and the mark is clearly recognizable within the disputed domain name. The addition of the term "global" after the trademark EUREX does not change this assessment. This is even more so, considering that the term "global" is descriptive of a "global" business operating in several countries worldwide, such as the Complainant's business.

The Complainant further maintains that the Respondent lacks rights or legitimate interests in the disputed domain name as it is used for illegal activities such as phishing for personal information and other types of fraud. The website associated to the disputed domain name allegedly provides financial services offered by an entity purportedly named "Eurex", "Eurex Bank" (which in the copyright notice and other places of the website is expanded into "European Express" and "European Express Bank"), with address in London, UK. However, the Complainant has searched entries for entities named "Eurex", "Eurex Bank", "European Express" or "European Express Bank" on the UK Companies House and on the Financial Services Register with no success. The telephone number provided in the contact page of the website is the telephone number of an entity having no connection with an entity providing financial services. The links appearing on the website explaining the services offered and the Privacy Policy lead back to either the home page of the website or the header of the respective site. The website shows an offer for a mobile app named EUREXBANK allegedly available on the Google Playstore and the Apple App Store, which does not exist. The website footer includes links to various social media accounts, which do not exist. The website includes various typos.

Rather than actually providing financial services, the website associated with the disputed domain name includes several options to enter personal and business data, such as various .pdf forms where the Internet user is invited to insert comprehensive personal and business information in order to apply for a letter of credit, a worker's loan, or to request the EUREX credit card. The website also includes the e-mail address "apply@eurexglobal.com", which is where the Internet users should send the required information.

In addition to the above, the Complainant points out that it never authorised the Respondent, or the Respondent or the entity mentioned in the website associated with the disputed domain name, to use its trademark in any manner, including as part of the disputed domain name. The Respondent is not affiliated with the Complainant and is not a Complainant's licensee. By using the trademark EUREX as distinctive element of the disputed domain name together with the descriptive word "global", the Respondent implies an affiliation with the Complainant that does not exist. The Respondent is luring Internet users to indicate their personal data in order to make use of the supposed services.

Lastly, the Complainant maintains that the Respondent registered and is being using the disputed domain name in bad faith. The Complainant affirms that its EUREX trademark is well-known and that the Respondent knew or should have known, that the disputed domain name would be confusingly similar to the Complainant's mark. The disputed domain name was registered and used to defraud users who place trust in the Complainant. Especially in the financial service field, trust and knowledge about reliable services is of high importance. The Complainant has successfully built this trust for many years. By registering and using the disputed domain name, the Respondent is probably expecting users to imply an inexistent affiliation with the Complainant, and misleads them as to the origin of its website and reliability of the services provided therewith, in order to place false trust in the Respondent's alleged services.

Other elements of bad faith consist in the: (i) nature of the disputed domain name, which incorporates the Complainant's mark followed by a descriptive term that refers to the scope of the Complainant's business and indicate the availability of the services on the Internet; and the (ii) contents of the website, which allegedly offers financial services, likewise the Complainant, but in the truth is used for phishing and scam activities.

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

I. Confusing Similarity

The Complainant has successfully proved to own registered trademark rights over the term EUREX, dating back earlier than the date of registration of the disputed domain name. The Panel finds that the disputed domain name is confusingly similar to the Complainant's mark EUREX, as it incorporates it entirely. The addition of the term "global", after the Complainant's mark, in the disputed domain name, cannot prevent a finding of confusing similarity of the disputed domain name with the Complainant's mark. The EUREX mark is well recognizable within the disputed domain name and the addition of other terms, including descriptive terms such as "global" do not prevent a finding of confusing similarity under the first element of the Policy. See paragraph 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“WIPO Overview 3.0”).

Therefore, the Panel is satisfied that the first condition under the Policy is met.

II. No Rights or Legitimate Interests

As also confirmed in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), a complainant is required to make out a prima facie case that the respondent lacks rights or legitimate interests. Once such prima facie case is made, the burden of production shifts to the respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such appropriate allegations or evidence, a complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the Policy.

Based on the available evidence, the Respondent does not appear to be known by the disputed domain name. The Respondent is not a licensee of, nor has any kind of relationship with, the Complainant. The Complainant never authorised the Respondent to make use of its trademark in the disputed domain name. The disputed domain name does not appear to be used in connection with a bona fide offering of goods or services, or a legitimate noncommercial or fair use of the disputed domain name. The composition of the disputed domain name, consisting of the Complainant's trademark followed by the descriptive term "global", which refers to the global nature of the Complainant's business, and the generic TLD ".site" cannot constitute fair use as it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. The disputed domain name entails a high risk of confusion for the Internet user who is led to believe that it resolves to the Complainant's global website and it belongs to the Complainant or to a related entity, while in fact it is not. The disputed domain name resolves to a website prominently displaying the trademark EUREXBANK and allegedly offering financial services, including a credit card named "Eurex" and a mobile app named "EurexBank". The Respondent's website also refers to a UK entity named "Eurex" or "Eurex Bank", where "Eurex" is likely to be understood as the acronym of "European Express", another name appearing on the website. The Respondent's website contains links to different sections containing .pdf forms to be filled in with comprehensive information from the Internet users and their businesses. The forms and information should be sent to the e-mail address "apply@eurexglobal.site", which entails that the Respondent has set up Mail exchanges ("MX records") allowing the Respondent to send and receive e-mails under the disputed domain name. It therefore appears that rather than offering financial services, the Respondent is seeking to obtain sensitive information from the Internet users accessing its website, while impersonating the Complainant and taking advantage of the Complainant's mark and goodwill. The use of a domain name for illegal activity, such as phishing, passing off and other kinds of illegal activities, can never confer rights or legitimate interests on a respondent (paragraph 2.13.1 of the WIPO Overview 3.0).

In light of the above, the Panel concludes that the Complainant has made a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The onus of proof now shifts to the Respondent to provide convincing arguments and evidence that it owns rights or legitimate interests in the disputed domain name. However, the Respondent did not offer any argument or evidence in support of its position as it failed to submit a Response.

Thus, the Panel finds that the Complainant has satisfied the second condition under the Policy.

III. Bad Faith

The Complainant maintains that its EUREX trademark is renown. In consideration of the longstanding and widespread use of this trademark, both in terms of geographical extent and broad range of financial services offered, the Panel is inclined to consider the EUREX mark as renown. Such circumstance has also been confirmed by other prior CAC's UDRP decisions.

Considering the composition of the disputed domain name and the kind of use that the Respondent is making of the same, the Panel considers that the Respondent was certainly aware of the Complainant's mark at the time of the registration of the disputed domain name. The registration of a domain name incorporating a third party's trademark, without rights or legitimate interests, amounts to registration in bad faith.

As far as use in bad faith is concerned, the Panel notes that for the reasons already explained under Paragraph II. above, the disputed domain name is likely used for phishing and other scam activities. Such use is in bad faith as the Respondent is cheating the Internet users looking for the Complainant to intentionally attempt to attract them, for commercial gain or other fraudulent reason, to its website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website.

In light of the above, the Panel is satisfied that also the third and last condition under the Policy is met.

.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **eurexglobal.site**: Transferred

PANELLISTS

Name	**Angelica Lodigiani**

DATE OF PANEL DECISION 2024-03-22

Publish the Decision