Decision for dispute CAC-UDRP-106424

Case number	CAC-UDRP-106424
Time of filing	2024-04-12 08:41:31
Domain names	eurex365.com, eurex365.net

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	Sergio Netz

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

The Complainant relies on the following registered trade marks:

- International trademark no. 635015 for the mark EUREX registered on 5 December 1994 in classes 9, 35, 36 and 42;
- International trademark no. 812147 for the mark EUREX registered on 28 July 2003 in classes 9, 16, 35, 36, 38, 41 and 42;
- EU trademark no. 744763 for the mark EUREX registered on 8 June 1999 in classes 9, 16, 35, 36, 38 and 42;

  as well as various national registrations of the mark EUREX.

FACTUAL BACKGROUND

The Complainant is the parent of the Deutsche Borse Group. Amongst other international exchange and financial market infrastructure businesses, the group organises one of the world's largest derivative markets under the mark EUREX, one of the world's leading clearing houses under the mark EUREX CLEARING, and securities financing under the mark EUREX REPO. The Complainant is the proprietor of the registered EUREX trademarks mentioned above.

The Respondent registered the disputed domain names <eurex365.com> and <eurex365.net> on 20 December 2023 and 6 February 2024 respectively. The former domain name was directed to a website which purported to promote private banking services, including fund management and financial trading services. The website claimed that the business had been operating since 2015.

PARTIES CONTENTIONS

No administratively compliant Response has been filed.

RIGHTS

The Panel finds that the Complainant has registered rights in the mark EUREX.

The Panel is also satisfied that the disputed domain names are confusingly similar to this mark, from which they differ only in the addition of the number "365" and the generic top level domain name suffices. The number 365 has a strong descriptive element indicating operation on all 365 days of the year. This number and the top level domain name suffices do not avoid the likelihood of confusion.

The 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 the Complainant has rights within the meaning of paragraph 4(a)(i) of the Policy.

NO RIGHTS OR LEGITIMATE INTERESTS

The Panel considers that the Respondent has not used the disputed domain names for any bona fide offering of goods or services. The Respondent registered the disputed domain names in late 2023 and early 2024, long after the Complainant's operations under the mark EUREX had become very well-known. The Respondent's website promotes a business operating in related fields to the Complainant's EUREX businesses. If the Respondent has a business as claimed, it must have known that it adopted and was using domain names that consist primarily of the principal mark of a leading global business in related fields, and must have adopted these domain names in order to mislead users.

The Respondent has not been using the disputed domain names for any legitimate non-commercial or fair use. On the contrary, the Respondent has purported to use the disputed domain names to promote a commercial service, apparently with intent for commercial to misleadingly divert consumers.

On the information in the case file, it appears that the Respondent has not been commonly known by the disputed domain names or any corresponding names. The Panel also accepts the Complainant's confirmation that it has not authorised the Respondent to use the disputed domain names.

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 names within the meaning of paragraph 4(a)(ii) of the Policy.

BAD FAITH

The Panel infers from the available evidence that the Respondent adopted and used the disputed domain names in bad faith in order to mislead consumers into believing that its business or purported was part of the Complainant's well-known business group.

The 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 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

The disputed domain names consist of Complainant's well-known mark, EUREX, followed by a descriptive element and gTLD suffices, which do not avoid the likelihood of confusion. The Respondent's website promotes a business operating in fields related

to those of the Complainant's EUREX subsidiaries. The Panel infers that the Respondent adopted the disputed domain names to mislead users, therefore does not have any rights or legitimate interests in them, and registered and is using them in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **eurex365.com**: Transferred
2. **eurex365.net**: Transferred

PANELLISTS

Name	**Jonathan Turner**

DATE OF PANEL DECISION 2024-05-29

Publish the Decision