

Decision for dispute CAC-UDRP-104585

Case number	CAC-UDRP-104585
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Time of filing	2022-05-17 16:50:29
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Domain names	XETRAFINANCE.COM
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Case administrator

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

Organization	Deutsche Börse AG
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Complainant representative

Organization	Grünecker Patent und Rechtsanwälte PartG mbB
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Respondent

Name	juan
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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 a number of registrations for the trademark XETRA for, inter alia, financial services in class 36, including:

- German Trademark Registration No. 396542816 XETRA;
- German Trademark Registration No. 303090669 XETRA (&device);
- German Trademark Registration No. 398351597 XETRA (&device);
- International Registrations No. 678280 XETRA for designated countries Switzerland, China, Czech Republic, Hungary, Liechtenstein, Latvia, Poland and Slovakia;
- International Registrations No. 807190 XETRA (&device) for designated countries Belarus, Switzerland, China, Czech Republic, Estonia, Hungary, Liechtenstein, Lithuania, Latvia, Norway, Poland, Russia, Slovenia and Slovakia, Turkey and

Ukraine;

- EUTM No. 000962787 XETRA (&device);
 - EUTM No. 013142369 XETRA (&device);
 - EUTM No. 003248127 XETRA (&device);
 - EUTM No. 000530469 XETRA.
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FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The 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. The Complainant has customers in Europe, USA and Asia. In 2022, more than 90 percent of all share trading on German stock exchanges was handled via the XETRA trading system, which corresponds to a monthly trading volume of around 150 billion euros. With a market share of 30 percent, XETRA is also the largest trading venue for exchange-traded funds (ETF) in Europe. The prices on XETRA are the basis for calculating the DAX, Germany's best known share index. Traded on XETRA are also Exchange Traded Notes (ETNs) that give investors easy access to the performance of the cryptocurrencies Bitcoin, Ethereum and Polkado.

The disputed domain name was registered on 23 January 2022. The disputed domain name resolves to a website where the Respondent allegedly operates a crypto currency based investment platform, which uses a crypto currency named "XetraCoin (Xc)", and offers interest rates from monthly 4%.

The Complainant contends that the disputed domain name is confusingly similar to the Complainant's XETRA trademark as the disputed domain name contains the trademark in its entirety, while the addition of the element "finance" describe the financial trading services for which the Complainant's XETRA trademark is ordinarily used.

The Complainant alleges that the Respondent operates a "Cryptocurrency" investment site under the disputed domain name which is based on so called "XetraCoins", and offers high interest rates. The Complainant has never authorized the Respondent to use the XETRA trademark, there is no connection between the Respondent and the Complainant or its subsidiaries. Moreover, the Respondent neither provides any details about its identity nor any contact details. According to the Complainant, considering the nature of the Respondents alleged business and the substantial risks involved for users entrusting their funds to the service, the lack of any identification with the exception of the Complainant's XETRA trademark as part of the alleged company name "XETRAFINANCE", the disputed domain name and also as name of the crypto currency offered clearly shows that the Respondent does not intend to use the disputed domain name for legitimate commercial purposes.

The Complainant contends that the Respondent uses the disputed domain name to collect investments without providing any further information about its identity. By creating the incorrect impression that the service available under the disputed domain name is operated by the Complainant or at least connected with the Complainant, the Respondent tries to create the impression that the services are trustworthy, which they are certainly not. The Complainant put forward that the Respondent revealed its identity by providing a false name and address. The Complainant alleges that it is apparent that the disputed domain name has been registered and is being used in bad faith in order to benefit from the Complainant's reputation as a trustworthy provider of financial service.

PARTIES CONTENTIONS

No administratively compliant Response has been filed.

HIGHTS

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

1. The Panel finds that the disputed domain name is confusingly similar to the Complainant's XETRA trademarks, which has been taken in its entirety in the disputed domain name. The addition of the term "finance" does not take away the confusing similarity of the disputed domain name to the XETRA trademark.
2. The Panel finds that the Complainant successfully submitted prima facie evidence that the Respondent was not authorized by the Complainant to register. Further, the Respondent did not challenge the Complainant's allegation that the disputed domain name is being used to deploy fraudulent or otherwise illegal activities. The Panel is satisfied that the Complainant submitted sufficient evidence to support such allegation, and consequently, such use of the disputed domain name cannot confer rights or legitimate interests on the Respondent (cf. par. 2.13 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition).
3. The Panel is satisfied that it is likely that the Respondent must have had the Complainant's older XETRA trademark in mind when registering the disputed domain name. This is further emphasized by the fact that the disputed domain name resolves to a website which offers financial instruments which Internet users could believe to be connected to those offered by the Complainant. The Complainant has also successfully shown that the website to which the disputed domain name resolves likely not only attempts to fraudulently collect money from consumers but also offers such services by using a false identity and address. Consequently, the Respondent registered and used the disputed domain name in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **XETRAFINANCE.COM**: Transferred

PANELLISTS

Name	Alfred Meijboom
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DATE OF PANEL DECISION	2022-06-13
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Publish the Decision