

ADMINISTRATIVE PANEL DECISION

Natixis v. Kang min young

Case No. D2023-3263

1. The Parties

The Complainant is Natixis, France, represented by Inlex IP Expertise, France.

The Respondent is Kang min young, Republic of Korea.

2. The Domain Name and Registrar

The disputed domain name <naticsis.shop> is registered with Gambia, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on July 28, 2023. On July 28, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 31, 2023, the Registrar transmitted by email to the Center its verification response, disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (not disclosed) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 7, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint in English on August 7, 2023.

On August 7, 2023, the Center transmitted an email communication to the Parties in both English and Korean regarding the language of the proceeding. On August 7, 2023, the Complainant submitted a request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

The Center verified that the Complaint, together with the amended Complaint, satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint in English and Korean, and the proceedings commenced on August 23, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 12, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 13, 2023.

The Center appointed Kathryn Lee as the sole panelist in this matter on September 15, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a multinational financial services firm and part of the Groupe BPCE, which is the second largest banking group in France. The Complainant has more than 16,000 employees in 36 countries, and has received recognition for its services, such as the Latin America MLA of Year Award in 2020 for best-in-class transactions and organizations across the international infrastructure and energy sectors, and was ranked fourth for European Fixed Income Research by the Euromoney Fixed Income Research Survey, and ranked first bookrunner for syndicated real-estate finance loans in the EMEA region in 2017 by Dealogic. The Complainant owns several trademark registrations to the term NATIXIS, including French Trademark Registration Number 3416315, filed on March 14, 2006, and European Union Trademark Registration Number 005129176, registered on June 21, 2007.

The Respondent appears to be an individual with an address in the Republic of Korea.

The disputed domain name was registered on May 12, 2023. The Complainant provided evidence that before it filed the Complaint, the disputed domain name displayed a log-on page in Korean, requesting ID and password, and it also had NATIXIS logo and a statement in the background, stating in French, “[c]oopératifs, banquiers et assureurs [...]”. At the time of decision, the disputed domain name does not resolve to any active website.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to the NATIXIS trademark in which the Complainant has rights since the disputed domain name is identical to the NATIXIS mark with the exception that the letter “x” is replaced with “cs”. The Complainant contends that this change does not eliminate confusing similarity since the disputed domain name remains highly visually similar and phonetically identical to the Complainant’s trademark.

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name and confirms that it has not authorized or licensed rights to the Respondent in any respect. The Complainant further contends that there is no evidence of the Respondent’s use of, or demonstrable preparations to use the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services. Rather, the Complainant asserts that the disputed domain name at one point forwarded to a website reproducing the Complainant’s trademark and logo, leading visitors to the website to believe that the website was owned by the Complainant. The Complainant asserts that this website offered illegal online services or was used to unlawfully collect information from consumers, which does not constitute legitimate use.

Finally, the Complainant contends that the disputed domain name was registered and used in bad faith. The Complainant contends that the NATIXIS mark is well-known in France and in several other countries, and that the Respondent surely registered the disputed domain name with the aim of taking advantage of the reputation of the mark. The Complainant also contends that the Respondent’s bad faith can be inferred from the fact that the registrant’s contact details were not disclosed on WhoIs. In addition, the Complainant contends that the use of the disputed domain name was in bad faith since visitors to the website would have been misled to believe that there was a link between the website/the disputed domain name and the Complainant, and the Respondent’s main purpose for use of the disputed domain name was to defraud the Complainant’s clients in a phishing scheme.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

A. Language

Paragraph 11(a) of the Rules provides that the language of the proceeding shall be the language of the registration agreement, unless otherwise agreed to by the parties, subject to the authority of the panel to determine otherwise. In this case, the language of the Registration Agreement is Korean, and both Parties have had an opportunity to argue their position on this point. The Center issued a notice in Korean and English stating that it would accept the Complaint filed in English, and that the Response would be accepted in either Korean or English. The Respondent subsequently chose not to submit any Response.

The Panel finds it proper and fair to render this decision in English. Given the fact that the Complainant is based in France and the Respondent is based in the Republic of Korea, English would appear to be a fair and neutral language for rendering this decision. Further, the disputed domain name is composed of alphabet letters, and the website connected to the disputed domain name displayed words in English. In addition, both Parties were given the opportunity to submit arguments in the language of their preference, and the language in which to render the decision is reserved for the Panel. The Panel would have considered a formal Response in Korean, but no such Response was submitted. Accordingly, the Panel determines that rendering the decision in English is fair and procedurally efficient given the circumstances of this case.

B. Identical or Confusingly Similar

The Complainant has demonstrated with supporting evidence that it has rights to the trademark NATIXIS. As for the disputed domain name, it consists solely of the term "naticsis" and the only difference is that "cs" is used in place of the "x". According to WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7, a disputed domain name is considered confusingly similar to a trademark if it "incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name". Here, the disputed domain name also begins with "nati-" and ends with "-is". As the beginning and end portions of the two are identical, and the only difference is the middle portion where the letter "x" is replaced with "cs", the dominant features of the Complainant's mark are recognizable within the disputed domain name when compared side-by-side. Not only that, the disputed domain name would be pronounced essentially the same as the Complainant's mark, so the disputed domain name is confusingly similar to the Complainant's mark in pronunciation as well.

For the reasons mentioned above, the Panel finds that the first element has been established.

C. Rights or Legitimate Interests

On the basis of the present record, the Panel finds that the Complainant has made the required allegations to support a *prima facie* case showing that the Respondent has no rights or legitimate interests in the disputed domain name. Once such a *prima facie* case has been established, the burden of production shifts to the Respondent to demonstrate its rights or legitimate interests in the disputed domain name, with the burden of proof always remaining with the Complainant. However, the Respondent in this case has chosen to file no Response to these assertions by the Complainant, and there is no evidence or allegation in the record that would warrant a finding in favor of the Respondent on this point.

Further, the disputed domain name at one point redirected to a website designed to appear as the website of the Complainant displaying the Complaint's mark and logo and inviting visitors to the website to register as a member. The use of a domain name for illegal activity can never confer rights or legitimate interests on the Respondent. See [WIPO Overview 3.0](#), section 2.13.1.

For the reasons provided above, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, and that the second element has been established.

D. Registered and Used in Bad Faith

The Panel finds that there is strong and clear evidence to find bad faith in this case.

The registration of the disputed domain name which is confusingly similar to the Complainant's well-known NATIXIS mark by the Respondent, who is unaffiliated with the Complainant, creates a presumption of bad faith. Further, based on the reputation of the Complainant and the Complainant's mark, the Respondent probably knew of the Complainant and its marks at the time of the registration of the disputed domain name. Even if the Respondent did not, a simple Google search would have shown numerous results of the Complainant.

The disputed domain name does not currently display any content, but at one point forwarded to a website prominently displaying the Complainant's trademark and logo, passing itself off as the Complainant. This indicates that the Respondent likely knew of the Complainant and the Complainant's trademark when registering the disputed domain name. Next, the website at the disputed domain name invited Internet users to register as members which highly suggests that there was use/attempt to use the disputed domain name in perpetuating fraud using the personal information obtained in this manner. Considering this, it is quite clear that the Respondent registered the disputed domain name with the intent to benefit financially from the disputed domain name and the fame and reputation associated with the Complainant's trademark.

Though the Complainant has not submitted any direct evidence of fraud, the Panel considers it probable that the Respondent used or intended to use the disputed domain name for purposes of phishing, identity theft, or some other activity in bad faith. Indeed, the Panel cannot conceive of any good faith use to which the disputed domain name may be put. Further bad faith is found in the failure of the Respondent to submit a response and the Respondent's concealing its identity using a privacy service. Moreover, the disclosed Respondent information appears fake, or incomplete, seeing as the Center was unable to send its written communication to the contact details provided by the Registrar for the Respondent.

For the reasons given above, the Panel finds that the third element has been established.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name, <naticsis.shop>, be transferred to the Complainant.

/Kathryn Lee/

Kathryn Lee

Sole Panelist

Date: September 29, 2023