

ADMINISTRATIVE PANEL DECISION

Natixis v. Registration Private, Domains By Proxy, LLC / Thomas Langston
Case No. D2022-1609

1. The Parties

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

The Respondent is Registration Private, Domains By Proxy, LLC, United States of America (“United States”) / Thomas Langston, United States.

2. The Domain Name and Registrar

The disputed domain name <natixisinternational.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 4, 2022. On May 4, 2022, the Center transmitted to the Registrar a request for registrar verification in connection with the disputed domain name. On May 5, 2022, the Registrar transmitted to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent and contact information in the Complaint. The Center sent a communication to the Complainant on May 6, 2022, 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 on May 9, 2022.

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, and the proceedings commenced on May 10, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 30, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 31, 2022.

The Center appointed Irina V. Savelieva as the sole panelist in this matter on June 13, 2022. 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 French multinational financial service company dealing with assets and wealth management, corporate and investment and banking, and insurance and payment. The Complainant is a part of group BPCE which is one of the largest banking group in France and has more than 16,000 employees in 36 countries.

The Complainant has several trademarks registered at different level incorporating NATIXIS starting from 2007:

- French trademark registration No. 3416315 for NATIXIS (word), registered on March 14, 2016 for the classes of goods and services 9, 16, 35, 36, and 38;
- European Union trademark No. 005129176 for NATIXIS (word), registered on June 21, 2007 for the classes of goods and services 9, 16, 35, 36, and 38;
- International trademark registration No. 1071008 for NATIXIS (design), registered on April 21, 2010 for the classes of goods and services 9, 16, 35, 36, and 38.

The Complainant has the following domain names: <natixis.com> registered on February 3, 2005; and <natixis.fr> registered on October 20, 2006.

The Complainant has an official website at “natixis.groupebpce.com”.

The Complainant has established its rights in NATIXIS mark on various UDRP decisions at the Center.

The disputed domain name was registered on April 28, 2022. The disputed domain name resolves to a Pay-Per-Click (“PPC”) parked page.

5. Parties’ Contentions

A. Complainant

a) Identical or confusingly similar

The Complainant contends that the disputed domain name is confusingly similar to the trademark NATIXIS.

The Complainant draws attention to the fact that in the disputed domain name the Respondent placed trademark NATIXIS in the leading position accompanied by additional word “international” which is merely descriptive and it does not add additional distinctiveness.

The Complainant, therefore, submits that the disputed domain name is confusingly similar to the registered trademarks NATIXIS of the Complainant.

b) The Respondent has no rights or legitimate interests

The Complainant has not found that the Respondent has any rights or legitimate interests in the disputed domain name. The Complainant has not authorized the Respondent to use any of its trademarks or to

register a domain name incorporating the trademark NATIXIS of the Complainant.

The Respondent is not known under the trademark NATIXIS.

The Respondent is not involved in *bona fide* offering of goods or services. The use of the disputed domain name to host a parked page using PPC does not represent in *bona fide* offering of goods or services.

The Complainant pays attention to the risk of potential affiliation of its business with the Respondent's parking page.

Therefore, the Complainant contends that the Respondent does not have any rights or legitimate interests in the disputed domain name.

c) The disputed domain name was registered and is being used in bad faith

The Respondent registered disputed domain name with the purpose of taking advantages of the Complainant's trademark and earning money with clicks through a parked page under categories of "investment" or "investment funds". In addition, the Respondent set up a mail exchange ("MX") records which could mislead Internet users as to the origin of email which could lead to fraudulent collection of personal information through phishing campaign and could in turn cause damage to the Complainant.

The Complainant's NATIXIS mark enjoys a wide reputation not only in France but across the world. It is evident that the Respondent registered the disputed domain name with full awareness of the Complainant's reputation and the Respondent "knew or should have known" about the Complainant's well known trademark.

Finally, the Complainant notes the fact that the Respondent was using a privacy protection service to hide its identity and to avoid being notified of a UDRP proceeding.

Consequently, the Complainant concludes that the Respondent should be considered to have registered and used the disputed domain name in bad faith.

B. Respondent

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

6. Discussion and Findings

The Panel finds that the Respondent was given notice of this proceeding in accordance with paragraphs 2 and 4 of the Rules.

However, the Respondent failed to file a response to the Complaint and has not sought to answer to the Complainant's assertions, evidence, or contentions in any other manner. The Panel finds that the Respondent has been given a fair opportunity to present its case and the Panel finds no exceptional circumstances why it could not do so; and the Panel will proceed to the decision based on the Complaint in accordance with paragraph 5(f) of the Rules.

The Respondent's default does not automatically result in a decision in favor of the Complainant. The Complainant must still prove the elements required by the Policy. In accordance with paragraph 4(a) of the Policy, in order to succeed in this proceeding and obtain the transfer of the disputed domain name, the Complainant must prove that the three following elements are satisfied:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

Pursuant to paragraph 15(a) of the Rules, the Panel shall decide the Complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable. Moreover, in accordance with paragraph 14(b) of the Rules, the Panel may draw such inferences as it considers appropriate from the Respondent's failure to reply to the Complainant's assertions. In the circumstances, the Panel's decision is based upon the Complainant's assertions and evidence, and inferences drawn from the Respondent's failure to reply.

A. Identical or Confusingly Similar

The Complainant has registered the trademarks NATIXIS in word and design format at regional and international levels. The Complainant submits that the disputed domain name is confusingly similar to its trademark. The disputed domain name incorporates the trademark NATIXIS in its entirety and add the additional word "international".

The Panel refers to consistent practice and past UDRP decisions, which confirm that incorporating a trademark in its entirety with addition of other terms does not prevent a finding of confusing similarity. It was specifically highlighted in section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), which states that "[t]his test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name. [...] In some cases, such assessment may also entail a more holistic aural or phonetic comparison of the complainant's trademark and the disputed domain name to ascertain confusing similarity."

The addition of the term "international" does not prevent a finding of confusing similarity. Section 1.8 of [WIPO Overview 3.0](#) provides that "[w]here the relevant trademark is recognizable with the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confused similarity under the first element".

In the Panel's view, the NATIXIS trademark which is reproduced in its entirety and placed in the leading position is clearly recognizable within the disputed domain name.

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademarks.

The Panel finds that the Complainant has satisfied its burden of proof under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name.

Even though the Respondent has not filed a response to the Complaint and has not contested the Complainant's assertions, the Panel will have to consider whether the Respondent's use of the disputed domain name would indicate the Respondent's rights or legitimate interests in the disputed domain name.

According to paragraph 4(c) of the Policy, the following circumstances, if proved, demonstrate the respondent's rights or legitimate interests in the domain name:

- (i) the respondent's use of or demonstrable preparations to use the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services prior to notice of the dispute; or

- (ii) the respondent (as an individual, business, or other organization) has been commonly known by the domain name, even if it has acquired no trademark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

By not responding to the Complainant's contentions, the Respondent in this proceeding has not attempted to demonstrate its rights or legitimate interests.

The Panel further notes the fact that the Respondent has been using the disputed domain name for a parked PPC page *per se* does not constitute a *bona fide* offering of goods or services. The Panel draws attention to the fact that the parking page at the disputed domain name creates an impression that it is associated with the Complainant and it leads to taking advantage of the Complainant's trademark reputation and misleading Internet users.

According to section 2.9 of WIPO overview 3.0: "UDRP panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a *bona fide* offering where such links compete with or capitalize on reputation or goodwill of the complainant's mark or otherwise mislead Internet users."

The described use of the disputed domain name, in the Panel's view, proves that the Respondent was not involved in *bona fide* offering of goods or services in respect of the disputed domain name under paragraph 4(c)(i) of the Policy.

As to paragraph 4(c)(ii) of the Policy, there is no evidence that the Respondent has been commonly known by the disputed domain name.

According to the Complainant, it has neither authorized nor licensed the Respondent to use its trademark in any way.

There is no further evidence that the Respondent is making or has made legitimate noncommercial or fair use of the disputed domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the Complainant's trademark. The Respondent is using the disputed domain name with the purpose of gaining profit by a PPC parked page.

According to the Complainant, a parking page at the disputed domain name creates an impression that it is associated with the Complainant and carries a risk of implied affiliation. In the Panel's view, it may potentially constitute tarnishing of the Complainant's trademark. Therefore, paragraph 4(c)(iii) of the Policy does not apply.

The Panel finds the Complainant has established its *prima facie* case to show that the Respondent has no rights or legitimate interests in the disputed domain name, which has not been rebutted by the Respondent, and, accordingly, the Complainant has satisfied the requirements under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy, provides that the following circumstances are deemed to evidence that the respondent has registered and is using the domain name in bad faith:

- (i) circumstances indicating that the respondent has registered or has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of the complainant, for valuable consideration in excess of its documented out-of-pocket costs directly related to the domain name; or

- (ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product or service on its website or location.

First of all, according to section 3.1.4 of [WIPO Overview 3.0](#): “UDRP panels have consistently found that the mere registration of a domain name that is identical of confusingly similar (particularly domain names with typos or incorporating the mark plus a descriptive term) to a famous or of widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith.” The Panel considers that the above is applicable for this case.

The Complainant further contends that the Respondent has registered the disputed domain name in bad faith because the disputed domain name has been registered with the Respondent's knowledge of the Complainant's trademarks, business, and reputation.

The Complainant's use and registration of the trademark NATIXIS predate any use the Respondent may have made of the disputed domain name. The disputed domain name was registered on April 28, 2022, more than 15 years after the first use of the Complainant's registered trademark.

Section 3.2.2 of [WIPO Overview 3.0](#) notes that “[n]oting the near instantaneous and global reach of the Internet and search engines and particularly in the circumstance when the complaint's trademark is widely known (including in its sector) or highly specific and a respondent cannot credibly claim to have been unaware of the mark [...], UDRP panels have been prepared to infer that the respondent knew, or have found that the respondent should have known, that its registration would be identical or confusingly similar to a complaint's mark.” The Panel considers that the Respondent in this case should have known about the Complainant's trademark and the Respondent chose it on purpose for its commercial gain.

The PPC parked page at the disputed domain name is gaining profit for the Respondent. It is the Panel's view, under the present circumstances, that the Respondent most likely registered the disputed domain name with full awareness of the Complainant's trademarks as well as the goodwill associated with them.

It is clear in the Panel's opinion that in the mind of an Internet user, the disputed domain name could be directly associated with the Complainant's trademarks, which is likely to be confusing to the public as suggesting either an operation of the Complainant or one associated with or endorsed by it (see *AT&T Corp. v. Amjad Kausar*, WIPO Case No. [D2003-0327](#)).

Further, the Respondent has never been granted permission to register the disputed domain name. The Respondent takes advantage of NATIXIS trademark by intentionally attempting to attract Internet users to the Respondent's parked page by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or a product or service on the Respondent's website.

The Panel finds that the Respondent's registration and use of the disputed domain name show the Respondent intends to rely on a risk of confusion with the Complainant's activity and trademarks as to the source, sponsorship, affiliation, or endorsement of the disputed domain name and the website associated with it.

In addition, the Panel takes a notice of the Complainant's allegation that the Respondent relied on private protection for registration of the disputed domain name. The Panel considers it as an inference of bad faith registration the fact that the Respondent used the Whois privacy service. According to section 3.6 of [WIPO Overview 3.0](#): "[w]here it appears that a respondent employs a privacy or proxy service merely to avoid being notified about a UDRP proceeding filed against it, UDRP panels tend to find that this supports an inference bad faith."

These findings, together with the finding that the Respondent has no rights or legitimate interests in the disputed domain name, lead the Panel to conclude that the disputed domain name was registered and is being used by the Respondent in bad faith.

Therefore, the Panel finds that the Respondent has registered and used the disputed domain name in bad faith and, accordingly, the Complainant has satisfied the requirements of paragraph 4(a)(iii) of the Policy.

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 <natixisinternational.com> be transferred to the Complainant.

/Irina V. Savelieva/

Irina V. Savelieva

Sole Panelist

Date: June 27, 2022