

## **ADMINISTRATIVE PANEL DECISION**

Natixis SA v. Jorge Covili  
Case No. D2023-3744

### **1. The Parties**

The Complainant is Natixis SA, France, represented by DBK Law Firm, France.

The Respondent is Jorge Covili, Chile.

### **2. The Domain Name and Registrar**

The disputed domain name <natixisalgerie.com> is registered with FastDomain, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 7, 2023. On September 8, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 8, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 September 18, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 8, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 12, 2023.

The Center appointed Alfred Meijboom as the sole panelist in this matter on October 26, 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 French financial institution and a subsidiary of BPCE, which is the second largest banking group in France. The Complainant is the owner of several NATIXIS trademarks, including:

- International trademark NATIXIS, with registration number 1361560 of December 26, 2016, for goods and services in classes 9, 16, 35, 36, 38, 41, 42, and 45, designating, *inter alia*, Algeria;
- International trademark NATIXIS, with registration number 1071008 of April 21, 2010, for goods and services in classes 9, 16, 35, 36, and 38, designating, *inter alia*, Algeria; and
- European Union trademark NATIXIS with registration number 015885288 of March 25, 2017 for goods and services in classes 9, 16, 35, 36, 38, 41, 42, and 45.

The disputed domain name was registered on August 4, 2023, and resolves to a website cannot be reached.

#### 5. Parties' Contentions

##### A. Complainant

According to the Complainant the disputed domain name contains the Complainant's NATIXIS trademark in its entirety, which addition of the suffix "algeri[e]", which does not prevent a finding of a confusing similarity under the first element.

Further, the Complainant alleges that the Respondent has no rights or legitimate interests in respect of the disputed domain name as the Complainant has never authorized the Respondent to register and/or use the disputed domain name, and the Respondent has not made a legitimate noncommercial or a fair use of the disputed domain name which is only linked to an inaccessible website.

The Complainant alleges that it is unquestionable that the Complainant's NATIXIS trademark registrations predate the registration of the disputed domain name and that the Respondent must have been aware of the Complainant's goodwill and reputation in such trademarks and the Complainant's Internet presence through its websites under its domain name <natixis.com>. The Complainant also alleges that a previous panel decided that "[t]he NATIXIS mark in this case is highly distinctive and very well reputed having been used over a substantial period and in many countries" (*Natixis v. Contact Privacy Inc. Customer 0162569438 /Name Redacted*, WIPO Case No. [D2021-3147](#)), which according to the Complainant shows that its NATIXIS trademark is particularly famous and therefore could not go unnoticed by the Respondent when it registered the disputed domain name.

According to the Complainant, the disputed domain name is being used in bad faith because of the content of the website to which the disputed domain name resolves. In this respect, the Complainant refers to a consideration from *Axa SA v. Privacy service provided by Withheld for Privacy eh / Rez Reza*, WIPO Case No. [D2022-1062](#), which reads:

"Concerning the use of the domain name, the currently inactive status of the disputed domain name does not prevent a finding of bad faith under the doctrine of passive holding. As stressed by many previous UDRP decisions, 'While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details, and (iv) the implausibility of any good faith use to which the domain name may be put.' (see section 3.3 of the [WIPO Overview 3.0](#); *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#))".

The Complainant concludes “[T]herefore, in application, it shall be deemed that the registration of the Litigious Domain Name has been done *per se* in bad faith.”

## **B. Respondent**

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

## **6. Discussion and Findings**

The Respondent did not file a Response. However, as set out in section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), the consensus view of UDRP panels is that the respondent’s default does not automatically result in a decision in favor of the complainant. The Complainant must still establish each of the three elements required by paragraph 4(a) of the Policy. Although the Panel may draw appropriate inferences from the Respondent’s default, paragraph 4 of the Policy requires the Complainant to support its assertions with actual evidence in order to succeed in this proceeding. Paragraph 14(b) of the Rules provides that, in the absence of exceptional circumstances, the panel shall draw such inferences as it considers appropriate from a failure of a party to comply with a provision or requirement of the Rules. The Panel finds that in this case there are no such exceptional circumstances.

Under the Policy, the Complainant must prove that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

### **A. Identical or Confusingly Similar**

It is well established that the generic Top-Level Domain (“gTLD”) “.com” should typically be disregarded in the assessment under paragraph 4(a)(i) of the Policy.

The Panel finds that the disputed domain name is confusingly similar to the Complainant’s NATIXIS trademark. The disputed domain name incorporates the Complainant’s NATIXIS trademark in its entirety, and merely adds the term “algerie” (which is Algeria in French), which does not prevent a finding of confusing similarity between the disputed domain name and the Complainant’s NATIXIS trademark under the Policy (see, e.g., *Syngenta Participations AG v. Who Is Agent / Rogerio Biasotto*, WIPO Case No. [D2015-0253](#); and *Philip Morris USA Inc. v. Domain Admin / Whois Privacy Corp.*, WIPO Case No. [D2016-0910](#)).

Consequently, the first element of paragraph 4(a) of the Policy is met.

### **B. Rights or Legitimate Interests**

The Complainant must show a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, which the Respondent may rebut (e.g., *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#)).

The Panel takes note of the Complainant’s various allegations and more specifically that no authorization has been given by the Complainant to the Respondent to use the Complainant’s NATIXIS trademark or to register the disputed domain name, and the website to which the disputed domain name resolves cannot be reached, so that it is likely that the Respondent has not made a legitimate noncommercial or a fair use of the disputed domain name. Therefore, the Panel finds that the Complainant has established a *prima facie* showing that the Respondent lacks rights or legitimate interests in the disputed domain name.

The allegations of the Complainant remain unchallenged. There is no evidence before the Panel to show that the Respondent has rights or legitimate interests in the disputed domain name. The Panel therefore finds that the Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy.

### **C. Registered and Used in Bad Faith**

The Panel is satisfied that the Respondent must have had the Complainant's NATIXIS trademark in mind when it registered the disputed domain name, as the Complainant secured registration for the Complainant's NATIXIS trademark well before the registration of the disputed domain name, while it remains undisputed that the Complainant's NATIXIS trademark had already established its reputation when the disputed domain name was registered.

The disputed domain name does not resolve to an active website. The Complainant has cited *Axa SA v. Privacy service provided by Withheld for Privacy eh / Rez Reza, supra* to support that the non-use of the disputed domain name does not prevent a finding of bad faith under the doctrine of passive holding as summarized under section 5A. above. The Panel agrees with the Complainant, particularly considering the Complainant's NATIXIS trademark is distinctive and widely known, and the implausibility of any good faith use that the disputed domain name may be put. The composition of the disputed domain name would naturally lead Internet users into believing that it would resolve to a website related to the Complainant's business in Algeria. Therefore, the Panel finds that the disputed domain name was registered and is being used in bad faith.

Consequently, the third and last element of paragraph 4(a) of the Policy is also met.

### **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 <natixisalgerie.com> be transferred to the Complainant.

*/Alfred Meijboom/*

**Alfred Meijboom**

Sole Panelist

Date: November 9, 2023