

ADMINISTRATIVE PANEL DECISION

Natixis v. Bruno Lancien
Case No. D2023-4416

1. The Parties

The Complainant is Natixis, France, represented by MIIP MADE IN IP, France.

The Respondent is Bruno Lancien, France.

2. The Domain Name and Registrar

The disputed domain name <natixis-eurotitres.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 25, 2023. On October 25, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 26, 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 on October 26, 2023.

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 October 27, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 16, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 17, 2023.

The Center appointed Marie-Emmanuelle Haas as the sole panelist in this matter on January 4, 2024. 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 services firm specialized in asset and wealth management, corporate and investment banking, insurance and payments. The Complainant is part of the BPCE Group, which is the second largest banking group in France, and employs more than 16,000 employees in 36 countries.

EUROTITRES, as an affiliate company beneficiaries from NATIXIS reputation. Indeed, it is the first French subcontractor for retail custody of financial instruments. In 2022, EUROTITRES had 418 employees.

The Complainant enjoys a wide reputation in France and around the world.

The Complainant is the owner of the following trademarks:

- NATIXIS (word), French trademark registration No. 3416315, filed on March 14, 2006, and registered on August 18, 2006, for goods and services in classes 9, 16, 35, 36 and 38;
- NATIXIS (word), European Union trademark registration No. 5129176, filed on June 12, 2006, and registered on June 21, 2007, for goods and services in classes 9, 16, 35, 36 and 38;
- NATIXIS (semi-figurative), international trademark registration No. 1071008, filed and registered on April 21, 2010, for goods and services in classes 9, 16, 35, 36 and 38;
- EUROTITRES (semi-figurative), French trademark registration No. 3579528, filed on June 3, 2008, and registered on November 7, 2008, for goods and services in classes 35 and 36.

The Complainant is also the owner of the domain names <natixis.com>, registered on February 3, 2005, <natixis.fr>, registered on October 20, 2006, and <natixis.xyz> registered on March 26, 2016.

The disputed domain name was registered on August 28, 2023, and leads to a parking page reproducing the disputed domain name and displaying competing pay-per-click ("PPC") links.

A mail exchange server ("MX Server") is recorded, which means that an email server is associated with the disputed domain name.

The disputed domain name was registered using a privacy service. It appears that the Respondent is domiciled in France.

The Respondent also registered the domain name <natixis-eurotitres.fr> on September 13, 2023. A domain name dispute procedure is ongoing against <natixis-eurotitres.fr> at AFNIC (Association Française pour le Nommage Internet en Coopération / French Association for Cooperative Internet Naming), using their SYRELI (Système de Résolution Extrajudiciaire des Litiges en Ligne / Online Alternative Dispute Resolution System) platform.

Searches conducted on the Internet show that the Respondent does not own any NATIXIS or EUROTITRES trademark and that all Google searches on NATIXIS relate to the Complainant.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends the following:

Identity or similarity to the Complainant's trademarks

The disputed domain name is highly similar to the Complainant's trademarks.

The disputed domain name wholly incorporates the Complainant's trademarks NATIXIS and EUROTITRES, separated by a hyphen.

It is worth pointing out that NATIXIS has no meaning and is therefore highly distinctive.

The combination of these two trademarks even reinforces the risk of confusion as EUROTITRES is the name of an affiliate company of the Complainant, which offers a complete service for the safekeeping of securities accounts and the management of transactions carried out by individual customers.

Considering the above mentioned, the disputed domain name registered by the Respondent should be considered as confusingly similar to the prior rights owned by the Complainant.

Absence of rights or legitimate interest

First, the Respondent has no rights including trademark rights in respect of the name NATIXIS and EUROTITRES.

The Complainant has neither authorized nor licensed the Respondent to use its trademarks in any way.

It results from Google searches on NATIXIS that the Respondent is not commonly known as NATIXIS-EUROTITRES. The Respondent does not appear to engage in any legitimate noncommercial or fair use of the disputed domain name, nor any use in connection with *bona fide* offering goods and services.

The disputed domain name points to a parking page with PPC links. In any case, this use cannot constitute a *bona fide* offering of goods or services or a legitimate noncommercial or fair use.

For all the above-mentioned reasons, it should be concluded that the Respondent has no rights or legitimate interest in respect of the disputed domain name.

Bad faith registration and use

The disputed domain name was registered with the aim of taking advantage of the reputation of the well-known trademark NATIXIS of the Complainant.

The Complainant's trademarks are well-known in France and in several other countries.

When registering the disputed domain name, the Respondent employed a privacy service in order to hide its identity and to avoid being notified of a UDRP proceeding.

The disputed domain name resolves to a parking page and MX Server's records are installed, what means that it can be used for phishing and scams through an email address.

Bearing in mind the close resemblance of the disputed domain name to the Complainant's trademarks, it is likely that the general public receiving an email based on the disputed domain name at its address would mistakenly think it came from the Complainant, especially if the email is unsolicited. This could be very detrimental to the Complainant and its clients. Indeed, the activity of the Complainant is sensitive as it involves high amounts and the consequences of phishing campaigns and scams might be very harmful.

It is obvious that this disputed domain name has been registered for commercial purpose to mislead the consumer to a third party's website. The Respondent takes advantage of the Complainant's well-known trademarks to earn money with clicks.

B. Respondent

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

6. Discussion and Findings

To prevail in the proceedings under the Policy, the Complainant must show that the three requirements set forth in paragraph 4(a) of the Policy are met. Those requirements are:

- (i) the 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 domain name; and
- (iii) the domain name has been registered and is being used in bad faith.

Likewise, under paragraph 4(c) of the Policy, the Respondent can demonstrate its rights and legitimate interests in the disputed domain name in its response to the Complaint by demonstrating, among others, the circumstances mentioned under this paragraph of the Policy.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of NATIXIS and EUROTITRES trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of both NATIXIS and EUROTITRES trademarks are reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the NATIXIS and EUROTITRES trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

As set forth by paragraph 4(c) of the Policy, any of the following circumstances, in particular, but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate the Respondent's rights or legitimate interests to the domain name for purposes of paragraph 4(a)(ii):

(i) before any notice to the respondent of the dispute, its 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; 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.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

The Respondent has not been licensed or authorized to use the NATIXIS or EUROTITRES trademarks or to register the disputed domain name.

The Respondent used the disputed domain name to give access to a parking website that generates PPC revenues and to install MX Servers that enables the Respondent to create email addresses impersonating the Complainant and to use these addresses to send scam emails. This is not a *bona fide* use of the disputed domain name.

Having reviewed the available record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy sets out examples of circumstances that will be considered by an Administrative Panel to be evidence of bad faith registration and use of a domain name. It provides that:

“For the purposes of paragraph 4(a)(iii), the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that you have registered or you have 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 that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or
- (ii) you have 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 you have engaged in a pattern of such conduct; or
- (iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location.”

In the present case, the Panel notes that, given the well-known character of the NATIXIS trademark, the Respondent, who is an individual domiciled in France, cannot have ignored the existence and the reputation of this trademark at the time it registered the disputed domain name. There is no doubt that the Respondent was targeting the Complainant.

Based on the uncontested facts of this case, on balance, there does not appear to be any other reason for Respondent's registration of the disputed domain name other than for the possibility to trade off the goodwill and reputation of Complainant's NATIXIS and EUROTITRES trademarks or otherwise create a false association with the Complainant.

The Panel finds that the Complainant has submitted evidence that the disputed domain name is used to resolve to a parking page that generates PPC revenues.

It has also submitted evidence that the disputed domain name has MX Servers that enable the Respondent to use it for creating and using email addresses composed with "[...][@natixis-eurotitres.com](mailto:[]@natixis-eurotitres.com)". These email addresses can be used for any purposes and notably for spamming or phishing purposes, to obtain banking and personal data from the Complainant's customers and to misuse these data.

This is to the detriment of the Complainant and of the targeted Internet users.

This the proof that the Respondent aimed at creating a likelihood of confusion with the Complainant's trademarks to mislead Internet users, and especially the Complainant's clients, to disrupt its activity and to benefit from the NATIXIS trademark's reputation. Such conduct is within paragraph 4(b)(iv) of the Policy.

Given the well-known character of the NATIXIS trademark, the Panel cannot conceive any use that the Respondent could make of the disputed domain name that would not interfere with the Complainant's trademark rights.

Based on the available record, the Panel finds that the Complainant has established the third element 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 <natixis-eurotitres.com> be transferred to the Complainant.

/Marie-Emmanuelle Haas/

Marie-Emmanuelle Haas

Sole Panelist

Date: January 16, 2024