

ADMINISTRATIVE PANEL DECISION

NATIXIS SA v. Kangminyoung
Case No. D2023-4721

1. The Parties

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

The Respondent is Kang Min Young, Republic of Korea.

2. The Domain Names and Registrar

The disputed domain names <나탁시스.com> and <나탁시스.net> are registered with Gabia, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 14, 2023. On November 14, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On November 15, 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 sent an email communication to the Complainant on November 16, 2023, informing that one of the disputed domain names filed with the Center was registered under the country code Top-Level Domain for the Republic of Korea and thus subject to the KR Domain Name Dispute Resolution Policy, and inviting the Complainant to submit an amended Complaint. The Complainant withdrew the concerned disputed domain name and filed an amended Complaint on November 16, 2023.

On November 21, 2023, the Center informed the parties in Korean and English, that the language of the registration agreement for the disputed domain name is Korean. On November 21, 2023, the Complainant requested English to be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

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 in Korean and English on December 1, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 21, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 4, 2024.

The Center appointed Andrew J. Park as the sole panelist in this matter on January 17, 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, NATIXIS SA, is a French company created in 1954 with its head office in Paris, France. NATIXIS is a leading global financial institution that provides advisory, investment banking, financing, corporate banking, and capital markets services to corporations, financial institutions, financial sponsors, and sovereign and supranational organizations in approximately 30 countries worldwide. The Complainant advises its clients on their strategic development, helping them to grow and transform their businesses, and maximize their positive impact.

The Complainant is also the owner of numerous trademarks through the world, including the term “NATIXIS” as below:

Jurisdiction	Trademark	Registration/Application Number	Registration Date	Class
International Trademark		1071008	April 21, 2010	9, 16, 35, 36, and 38
International Trademark	NATIXIS	1361560	December 26, 2016	9, 16, 35, 36, 38, 41, 42, and 45
European Union Trademark	NATIXIS	15885288	March 25, 2017	9, 16, 35, 36, 38, 41, 42, and 45
Korean Trademark Application	나틱시스 (NATIXIS in Korean)	40-2023-0202576	November 8, 2023 (Application Date)	36

The Complainant is also owner of the domain names <natixis.com> reserved in 2005, and <natixis.kr> reserved in 2007 which lead to an active institutional website presenting BPCE and NATIXIS business sectors and products.

The disputed domain names <나틱시스.com> and <나틱시스.net> were registered on May 10, 2023 by the Respondent. The disputed domain name <나틱시스.com> resolved to an active website using the Complainant’s trademarks and logo with information written in Korean, and the second disputed domain name <나틱시스.net> resolved to a page of the registrar under construction. Currently, both disputed domain names redirect to inactive pages without content.

5. Parties' Contentions

A. Complainant

1. The Complainant, following the filing of the Complaint with the Center, requested that the language of proceeding be in English, providing three main reasons.

(a) The Complainant is French, and the Respondent is Korean. Both parties use different languages and neither of them is likely to understand the language of the other. Therefore, English would appear to be the fairest neutral language for filing this complaint in order to avoid any disproportionate costs.

(b) It would be disproportionate to require the Complainant to translate and submit the Complaint and other documents into Korean as this would cause additional expenses and unnecessary delay of the proceedings, notably considering the fraudulent activities of the Respondent using the disputed domain names.

(c) The Complainant is located in France while the Respondent is located in the Republic of Korea, where there are a considerable number of English speakers. Thus, it is likely that the Respondent can proceed with the administrative proceeding in English.

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

(a) The Complainant is the owner of several NATIXIS trademarks. The Complainant contends that the Complainant's trademarks are all well-known and duly exploited worldwide for finance and investment services. The Complainant also applied for its own trademark for the Korean transliteration of "NATIXIS," which is already widely used in the Republic of Korea.

The disputed domain names are identical or confusingly similar to the Complainant's trademark NATIXIS in which the Complainant has rights because they all contain 나틱시스, a Korean transliteration of the Complainant's trademark "NATIXIS", without any additional term or transliteration. The two disputed domain names incorporate the Complainant's trademark 나틱시스 in their entireties which is perfectly recognizable and would not prevent a finding of confusing similarity and identity with the Complainant's trademarks. Furthermore, it is evident that the disputed domain names were registered in order to create confusion with the Complainant's NATIXIS trademarks because the Respondent actually used the Complainant's logo on its website where one of the disputed domain name resolved. Also, the addition of the generic top-level domains ".com" and ".net" will not be taken into account to assess the likelihood of confusion and the similarity. Thus, the Respondent's use of the Complainant's trademarks in the disputed domain names leads the public to believe that the disputed domain names belong to the Complainant and are an expansion of its services for Korean clients.

(b) the Respondent has no rights or legitimate interests in the disputed domain names. The Complainant claims that (i) the Complainant has never authorized the Respondent to register and/or use any domain name incorporating the Complainant's trademarks, (ii) the Complainant has not granted any license, nor any authorization to use the trademarks, including as a domain name, (iii) the Respondent has not been commonly known by the disputed domain names, (iv) the Respondent has not made a legitimate noncommercial or fair use of the disputed domain names, and (v) the Respondent's use of the disputed domain names does not qualify as bona fide offer of goods and services. Notwithstanding the fact that one of the disputed domain names resolved to an active, fraudulent website in the Korean language, the Respondent used the Complainant's trademark and logo in said website and, therefore, proves that the disputed domain names were registered to mislead prospective Korean consumers and clients, and therefore, the disputed domain names are obviously calculated to confuse or deceive, as it falsely suggests that any services provided thereunder are linked to the Complainant.

(c) the disputed domain names were registered and are being used in bad faith. First, the Complainant claims that the Respondent has registered the disputed domain names in bad faith. The Respondent could not have been unaware of the Complainant's goodwill and reputation in its trademarks when it registered the disputed domain names because (i) the Complainant's registrations of its trademarks pre-date the registration of the disputed domain names by the Respondent, (ii) the Complainant's trademark NATIXIS is highly distinctive and very well reputed, having been used over a substantial period of time in many countries, and thus, can be regarded as a well-known trademark, (iii) the Complainant's worldwide presence on the Internet through its official websites must have given the Respondent actual knowledge of the Complainant, its trademarks, and its business activities, (iv) the Respondent used the Complainant's NATIXIS trademarks and logo in one of the subject websites to which the disputed domain name resolved and finally, (v) the disputed domain names include the Korean word, 나틱시스 which is the Korean transliteration of the Complainant's trademark NATIXIS. Therefore, it is more likely that the Respondent registered the disputed domain names in order to use them in a way which would be detrimental to the Complainant.

Secondly, the Complainant claims that the Respondent is using the disputed domain names in bad faith. One of the disputed domain names registered by the Respondent which now resolves to an inaccessible website, was initially used in order to conduct phishing attempts with a fake official page using the Complainant's trademarks and logo without any authorization from the Complainant, which was clearly fraudulent and constitutes bad faith. Further, with regard to the second disputed domain name which resolves to a registrar holding page, there is no evidence of any history of bona fide use of the disputed domain name or demonstrable preparations to use the disputed domain name in connection with a bona fide offering of goods or services, all of which may be viewed as indications of bad faith.

Lastly, the Complainant believes that there is no guaranty that the Respondent will not use the disputed domain names with the intent to steal confidential and private information from the Complainant's Korean speaking clients and prospective clients. The Complainant is particularly concerned about this situation because, in the field of banking services, consumer protection and security services are key issues given the sensitive nature of the data processed.

B. Respondent

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

6. Discussions and Findings

A. Language of the Proceeding

The Registration Agreement for the disputed domain name is in Korean. Pursuant to paragraph 11(a) of the Rules, unless otherwise agreed by the Parties, or specified otherwise in the registration agreement, the language of the proceeding shall be the language of the Registration Agreement, i.e., Korean, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

Having considered the circumstances of the case, the Panel decides that English be adopted as the language of the proceeding under paragraphs 10 and 11(a) of the Rules. In coming to this decision, the Panel has taken the following into account:

- 1) The Complaint has been submitted in English and it would cause undue delay and expense if the Complainant were required to translate the Complaint and other documents into Korean;

2) The Panel is proficient in both English and Korean, capable of reviewing all the documents and materials in both languages and giving full consideration to the Parties' respective arguments; and

3) The Complainant and the Respondent use different languages; the Complainant is located in France while the Respondent is from the Republic of Korea. The Panel notes that the Respondent, even though notified both in English and Korean of these proceedings, has not objected to English being the language of proceedings, nor has the Respondent made any submissions in this matter.

In light of these circumstances, the Panel concludes that it will (1) accept the Complaint in English; (2) consider any relevant materials in Korean; and (3) issue a decision in English.

B. Identical or Confusingly Similar

This element consists of two parts: first, whether the Complainant has rights in a relevant trademark and, second, whether the disputed domain name is identical or confusingly similar to that trademark.

The Panel finds that the Complainant has established registered rights in its trademark and that the disputed domain names are identical or confusingly similar to the Complainant's trademark.

The Complainant owns registrations for the trademark NATIXIS in many jurisdictions from between 2010 and 2016, and a strong reputation and goodwill worldwide including in the Republic of Korea where the Respondent is located. The Complainant has a Natixis Asia Limited Seoul Branch in Seoul, Korea, and filed a Korean trademark application for the mark 나틱시스, which is the Korean transliteration of NATIXIS.

The disputed domain names , <나틱시스.com> and <나틱시스.net>, are a complete use of the Complainant's trademark, NATIXIS, in their entirety with phonetically written Korean words. Although the words in the disputed domain names are Korean transliterations of the Complainant's trademark, NATIXIS, it is reasonable for Korean consumers to understand that 나틱시스 and NATIXIS are the same words, and would naturally accept it as the Complainant's trademark. Thus, the Complainant's trademark NATIXIS is recognizable in the disputed domain names and the transliteration would not prevent a finding of confusing similarity between the disputed domain names and the Complainant's trademark. Further, the addition of the generic Top-Level Domain ("gTLD") ".com" and ".net" may be disregarded when assessing whether a domain name is identical or confusingly similar to a trademark (see *Proactiva Medio Ambiente, S.A. v. Proactiva*, WIPO Case No. [D2012-0182](#)).

For these reasons, pursuant to the Policy, paragraph 4(a)(i), the Panel finds that the Complainant has shown rights in respect of a trademark for the purposes of the Policy. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7 and the disputed domain names are confusingly similar to the Complainant's trademarks.

C. Rights or Legitimate Interests

The Complainant contends that the Respondent has no right including trademark rights in respect of its registered trademark, NATIXIS and 나틱시스, a Korean transliteration of NATIXIS and is neither affiliated with, nor has it been licensed or permitted to use the Complainant's trademarks or any domain names incorporating these trademarks.

The Panel noted the Complainant's arguments that the Respondent's use of the disputed domain names which resolved to a fraudulent website in the Korean language, and used the Complainant's trademark and logo to mislead, confuse, and deceive Korean prospects and clients as it falsely suggests that any services provided thereunder are linked to the Complainant, do not qualify as a bona fide offering of goods and services. Rather, the Respondent is actually infringing the Complainant's trademarks and its businesses. The Respondent is not

making a legitimate, noncommercial fair use of the disputed domain name, does not show any demonstrable preparations to use the disputed domain name in connection with a bona fide offering of goods or services, and is not commonly known by the disputed domain name prior to the date on which the Respondent registered the disputed domain name resulting in trading on the value of the Complainant's famous trademark. Therefore, it is clear that the Respondent has no rights or legitimate interests in the disputed domain name.

Pursuant to paragraph 4(a)(ii) of the Policy, the Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. Once such a prima facie case is made, the burden of production on this element shifts to the Respondent to come forward with relevant evidence demonstrating its rights or legitimate interests in the disputed domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy. See [WIPO Overview 3.0](#), section 2.1.

Here, the Panel finds that the Complainant has made out a prima facie case. The Panel finds that the Respondent has no relationship with or authorization from the Complainant to use its trademarks. There is nothing in the record to suggest that the Respondent has made a legitimate noncommercial or fair use of the disputed domain name or has been commonly known by the disputed domain name. Also, there is no evidence that the Respondent has the intention to use the disputed domain name in connection with a bona fide offering of goods or services. The Respondent registered the disputed domain name and created a website in Korean language using the disputed domain name in an effort to confuse Korean Internet users or consumers about the relationship between the Respondent and the Complainant and all without the Complainant's permission or authorization. The Respondent's use of the disputed domain name in this manner is per se illegal and the use of disputed domain name to conduct illegal activities can never confer rights or legitimate interests on the Respondent and therefore such use can be considered as evidence that the Respondent has no rights or legitimate interests in the disputed domain name. All of these facts demonstrate that the Respondent never had an intention to use the disputed domain name in connection with a bona fide offering of goods and or services.

The Panel's view is that these facts may be taken as true in the circumstances of this case. Further, the Panel is unable to find any reasonable basis upon which the Respondent could be said to have any rights or legitimate interests in respect of the disputed domain name, and the Respondent has not filed a Response.

Accordingly, the Panel holds that the Respondent has no rights or legitimate interests in the disputed domain name pursuant to paragraph 4(a)(ii) of the Policy.

D. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides a non-exclusive list of circumstances that evidence registration and use of a domain name in bad faith. Any one of the following is sufficient to support a finding of bad faith:

- (i) circumstances indicating that the respondent has registered or 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 the complainant, for valuable consideration in excess of the respondent's 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 the respondent's website or location or of a product or service on the respondent's website or location.

The Complainant claims that the Respondent registered and is using the disputed domain name in bad faith in violation of the Policy, paragraph 4(a)(iii). Specifically, the Complainant claims that the Respondent violated the Policy, paragraph 4(b)(ii) by registering the disputed domain names 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.

As stated previously, the Respondent did not file any response to the Complaint, failing thereby to rebut the Complainant's allegations of the Respondent's bad faith registration and use of the disputed domain name. Nevertheless, the Panel still has the responsibility of determining which of the Complainant's assertions are established as facts, and whether the conclusions asserted by the Complainant can be drawn from the established facts (see *Harvey Norman Retailing Pty Ltd v. Oxford-University*, WIPO Case No. [D2000-0944](#)).

The Panel finds the Respondent intentionally registered and is using the disputed domain names - which are identical or confusingly similar to the Complainant's trademark - in bad faith for the reasons discussed below.

First, the Complainant's commencement of its business, its use of the domain names for the Complainant's official websites, and its registration of the trademarks together with more than 10 years of history all far pre-date the registration date of the disputed domain name by the Respondent. In addition, the Complainant's trademark had obtained worldwide recognition due to its wide-spread use. Further, considering the fact that the Complainant's Asia branch is located in Seoul, Korea, especially in the densely populated area of Jong-ro, it is reasonable to believe that the Respondent knew or should have known of the registration and/or use of the Complainant's trademark prior to registering the disputed domain name. The Korean word "나틱시스" in the disputed domain names is definitely a Korean transliteration of the Complainant's trademark NATIXIS, and any Korean consumer would recognize that 나틱시스 is a word derived from the Complainant's trademark, which demonstrates fully that the Respondent registered the disputed domain names in bad faith with the full knowledge of the Complainant's trademarks and business.

Secondly, the Panel also finds that the Respondent has been using the disputed domain name in bad faith. The website to which one of the disputed domain names resolved was used to conduct phishing attempts with a fake official page in the Korean language prominently displaying Complainant's trademarks and logos. The only reasonable purpose and intent was to give the false impression that the website emanates from Complainant for purposes that may include stealing confidential and private information from Korean prospects and clients. This further supports the conclusion the Respondent's registration and use of the disputed domain names were in bad faith.

Accordingly, the evidence shows that the Respondent likely knew of and had sought to take unfair advantage of the similarity between the disputed domain names and the Complainant's trademark, and to prevent the Complainant from reflecting its trademark in corresponding domain names.

As the conduct described above falls squarely within paragraph 4(b)(iv) of the Policy, the Panel concludes that the Respondent registered and is using the disputed domain name in bad faith pursuant to the Policy, paragraph 4(a)(iii).

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 names <나탁시스.com> and <나탁시스.net> be transferred to the Complainant.

/Andrew J. Park/

Andrew J. Park

Sole Panelist

Date: January 31, 2024