

ADMINISTRATIVE PANEL DECISION

NATIXIS SA v. kang meen young

Case No. D2023-4722

1. The Parties

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

The Respondent is Kang Meen Young, Republic of Korea.

2. The Domain Name and Registrar

The disputed domain name <나틱스.com> is 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 name. On November 20, 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 (Whois Privacy Services by gabia) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 21, 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 November 21, 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 in Korean and English the Respondent of the Complaint, and the proceedings commenced 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. Natixis CIB (Corporate and Investment Banking) is committed to aligning its financing portfolio with a carbon neutrality path by 2050 while helping its clients reduce the environmental impact of their business.

NATIXIS is a subsidiary of BPCE which is one of the largest banking groups in France. As part of the Global Financial Services division of Groupe BPCE, Natixis CIB benefits from the Group's financial strength and solid financial ratings.

The Complainant owns numerous trademarks throughout the world, including the mark "NATIXIS" as detailed 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 also owns 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 in different business sectors and products.

The disputed domain name <나틱스.com> was registered by the Respondent on July 24, 2023, and the website to which the disputed domain name resolved leads to an inactive webpage.

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 on the grounds that:

(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 a disproportionate burden 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, particularly considering the fraudulent activities of the Respondent using the disputed domain name.

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 and it filed an application for its own trademark for the Korean transliteration of NATIXIS which was already widely used in the Republic of Korea where the Respondent is located. The Complainant contends that the Complainant's trademarks are all well-known and duly exploited worldwide for finance and investment services.

The disputed domain name <나틱스.com> is confusingly similar to the Complainant's trademarks because it incorporates part of the trademark NATIXIS (in Korean transliteration "나틱시스") without any additional term or transliteration in its entirety. Indeed, only the third Korean character of the trademark is missing in the disputed domain name. However, the trademark 나틱시스 is still perfectly recognizable and the misspelling would not prevent a finding of confusing similarity with the Complainant's trademarks. By misspelling the trademarks, the Respondent is clearly trying to take advantage of typographical errors which can be made when typing web addresses and to benefit from the likelihood of confusion with the disputed domain name and the Complainant's trademark. Also, the addition of the generic top-level domain ".com" will not be taken into account to assess the likelihood of confusion and the similarity. Thus, the Respondent's use of the Complainant's trademark in the disputed domain name leads the public to believe that the disputed domain name belongs to the Complainant and is an expansion of its services for Korean clients.

(b) the Respondent has no rights or legitimate interests in the disputed domain name. 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 for the Respondent to use its trademarks, including as a domain name; (iii) the Respondent has not been commonly known by the disputed domain name; (iv) the Respondent has not made a legitimate noncommercial or fair use of the disputed domain name; and (v) the Respondent's use of the disputed domain name does not qualify as bona fide offer of goods and services. Indeed, the disputed domain name is linked to an inaccessible website which shows that there is no bona fide offering of goods and services by the Respondent.

(c) the disputed domain name was registered and is being used in bad faith. First, the Complainant claims that the Respondent has registered the disputed domain name in bad faith. The Complainant's registrations of its trademarks pre-date the registration date of the disputed domain name by the Respondent and the Complainant's trademarks have also acquired an extensive and worldwide reputation, notably among financial and banking market consumers, and can therefore be regarded as a well-known trademark. Also, given the Complainant's

worldwide presence on the Internet through its official websites, the Respondent must have had actual knowledge of the Complainant, its trademarks, and its business activities when it registered the disputed domain name. Therefore, the Respondent must have registered the disputed domain name in bad faith.

Further, the Complainant claims that the Respondent is using the disputed domain name in bad faith. The current inactive status of the website to which the disputed domain name resolved does not prevent a finding of bad faith under the doctrine of passive holding. The Complainant is concerned about this situation because, in the field of banking services, consumer protection and security services are a key issue given the sensitive nature of the data processed and the Complainant recognizes that the Respondent may choose to change its website content in the future, all of which may create a likelihood of consumer confusion with the Complainant's trademark.

Lastly, the Complainant emphasized that initially, the Respondent hid its identity and, thus, another example of the Respondent's registration and use of the disputed domain name in bad faith. Indeed, the Respondent used a privacy protection service and there was no address and no legal information regarding the company operating the website with the disputed domain name.

B. Respondent

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

6. Discussion 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 trademark and that the disputed domain name is identical or confusingly similar to the Complainant's trademark.

The Complainant owns registrations for the trademark NATIXIS in many jurisdictions between 2010 and 2016, and it has developed 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 it filed an application for the trademark 나틱시스 which is the Korean transliteration of its original trademark NATIXIS.

The disputed domain name, <나틱스.com>, is a complete use of the Complainant's trademark, NATIXIS, with a slightly modified word which is written phonetically in the Korean language. Although one Korean character was removed from 나틱시스, the Korean transliteration of "Natixis," any Korean speaker would think that 나틱시스 and 나틱스 are the same words, and would naturally accept it as the Complainant's trademark. Thus, the trademark 나틱시스 is clearly recognizable in the disputed domain name and the misspelling would not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark.

Further, the addition of the generic Top-Level Domain ("gTLD") ".com" 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 1.3 and the disputed domain name is confusingly similar to the Complainant's trademarks.

C. Rights or Legitimate Interests

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 Respondent carries the burden of 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, having reviewed the available record, the Panel finds that the Complainant has made out a prima facie case. Specifically, the Panel finds that the Respondent has no relationship with or authorization from the Complainant to use its trademark. The Respondent has shown no actual intention to use the disputed domain name since it registered the disputed domain name in 2023. The website to which the disputed domain name resolved has been inactive. 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 an intention to use the disputed domain name in connection with a bona fide offering of goods or services. The Panel's view is that these facts may be taken as true in the circumstances of this case.

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).

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 name - which is identical or confusingly similar to the Complainant's trademark, all 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 and also the Complainant trademark has developed a worldwide reputation. Furthermore, the Complainant's Asia branch is located in Seoul, Korea. It is noted that they are located in Jong-ro, which is one the busiest locations in Seoul, right next to Seoul City Hall, where many companies and people are concentrated. It is also noted that the Complainant had filed an application for 나틱시스, which is the Korean transliteration of its NATIXIS trademark, several months later than the date of the registration of the disputed domain name by the Respondent. However, it is reasonable to believe that the Respondent knew or should have known of the registration and/or use of the Complainant's trademark NATIXIS prior to registering the disputed domain name. The Korean word "나틱스" in the disputed domain name is clearly a Korean transliteration of the Complainant's trademark NATIXIS, in a modified way, and any Korean would think that both 나틱시스 and 나틱스 are derived from the Complainant's trademark. The foregoing demonstrates that the Respondent registered the disputed domain name with full knowledge of the Complainant's trademarks and business, and therefore, in bad faith.

Also, the website to which the disputed domain name resolved has been inactive since the Respondent's initial registration, and there is no evidence whatsoever that the Respondent is currently using or is commonly known by, has used or has been commonly known under, or has a bona fide intent to use the disputed domain name. Further, the Panel is unable to find any reasonable basis upon which the Respondent is taking active steps to prepare for the actual any kind of business with the disputed domain name in the future.

The Panel also fully considered the Complainant's argument that the Respondent's passive holding of the disputed domain name was indicative of the Respondent's bad faith use of the disputed domain name. Since it has been only six months since the Respondent registered the disputed domain name, the period of holding the disputed domain name by the Respondent is relatively short. Notwithstanding, the Respondent has not submitted any reasons for registering a confusingly similar domain name to the Complainant's trademark. The Panel's view is that the totality of the circumstances presented by the Complainant suggest that the Respondent registered and used the disputed domain name in bad faith. The Respondent failed to rebut any of the Complainant's submissions.

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

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 name <나틱스.com> be transferred to the Complainant.

/Andrew J. Park/

Andrew J. Park

Sole Panelist

Date: January 31, 2024