

ADMINISTRATIVE PANEL DECISION

NATIXIS v. kai li, ep
Case No. D2024-1019

1. The Parties

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

The Respondent is kai li, ep, China.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 7, 2024. On March 7, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 11, 2024, 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 (Domain Protection Services, Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 12, 2024 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 March 14, 2024.

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 March 15, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 4, 2024. The Respondent did not submit a formal response. Accordingly, the Center notified the Respondent’s default on April 5, 2024. Subsequently, the Respondent sent several email communications which the Panel discusses further below.

The Center appointed Theda König Horowicz as the sole panelist in this matter on April 18, 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 international corporate, investment management and financial services company, with headquarters in Paris, France. The company name Natixis was registered in 1954

The Complainant owns several registrations of the mark NATIXIS including European Union Trademark, Registration number 005129176, registered on June 21, 2007 in classes 9, 16, 35, 36, and 38.

In addition, the Complainant owns and operates inter alia the domain name <natixis.com> which was registered on February 3, 2005 and which resolves to a website promoting the Complainant's services.

The disputed domain name was registered on February 15, 2024. At the time of filing the Complaint, the disputed domain name pointed to an "error page". Currently the disputed domain name directs to what seems to be a parking page (without commercial links).

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 that

(i) the disputed domain name is confusingly similar to its prior rights. The disputed domain name comprises in entirety the well-known NATIXIS trademark and the generic word "investment" which is related to the Complainant's activities.

(ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has no rights including trademark rights in respect of NATIXISINVESTMENT. There is no business or legal relationship between the Complainant and the Respondent. A Google search made on NATIXISINVESTMENT does not lead to pertinent results apart from results related to the Complainant. Moreover, the disputed domain name points to an error page.

(iii) the disputed domain name was registered with the aim of taking advantage of the reputation of the Complainant's well-known trademark NATIXIS. Also, the Respondent employed a privacy service when registering the disputed domain name in order to hide its identity and to avoid being notified of a UDRP proceeding, which creates an inference of bad faith. Furthermore, the Respondent has engaged in a pattern of cybersquatting behaviour since he was found in a reverse Whois search as being the owner of 3124 domain names which is suspicious. Finally, when he registered the disputed domain name, the Respondent indicated fake information on his address; such a misrepresentation is evidence of bad faith registration.

B. Respondent

The Respondent did not reply to the Complainant's contentions. After expiration of the deadline to respond, a few short emails were sent to the Center asking for explanations on the purpose of the proceedings.

6. Discussion and Findings

According to paragraph 15(a) of the Rules the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Paragraph 4(a) of the Policy directs that a complainant must prove each of the following:

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

Paragraph 4(a) of the Policy states that the burden of proving that all these elements are present lies with the Complainant. At the same time, in accordance with paragraph 14(b) of the Rules, if a party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, the Rules, or any request from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate.

Based on paragraph 12 of the Rules, the Panel considers that the unsubstantial emails which were sent to the Center by the Respondent are not admissible since they were given after the expiration of the deadline to respond without providing an explanation on the reasons for such late intervention. The Panel notes in any event that the emails did not contain any submissions which would have changed the outcome of this decision.

A. Identical or Confusingly Similar

The Complainant has shown to have trademark rights in NATIXIS.

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.

The disputed domain name comprises the Complainant's NATIXIS mark in entirety. The additional word "investment" in the disputed domain name is a generic word, which does not prevent a finding of confusing similarity in view of the Panel. [WIPO Overview 3.0](#), section 1.8.

The Panel thus finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

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.

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.

It is clear from the facts of the case that the Complainant has not licensed or otherwise permitted the Respondent to use its trademark and given the circumstances of this case. Furthermore, the Respondent is not generally known by the disputed domain name and has not acquired any trademark or service mark rights in that name or mark.

The Panel therefore finds that there is no evidence of the types of circumstances set out in paragraph 4(c) of the Policy that might give rise to rights or legitimate interests in the disputed domain name on the part of the Respondent in these proceedings.

The Panel thus finds that the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Given the circumstances of the case, including the provided information of the widespread use of the Complainant's trademark NATIXIS and the distinctive nature of this mark, it is inconceivable to the Panel in the current circumstances that the Respondent registered the disputed domain name without prior knowledge of the Complainant and the Complainant's mark.

The Panel therefore finds that the disputed domain name was registered in bad faith.

The disputed domain name does currently not resolve to an active website but to a parking page and previously resolved to an "error page". Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although 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, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3.

Having reviewed the available record, the Panel notes:

- the distinctiveness and reputation of the Complainant's NATIXIS trademark;
- the composition of the disputed domain name which contains the NATIXIS trademark in entirety along with the word "investment" as a direct reference to the Complainant's field of activity; and
- the fact that the Respondent concealed its identity when registering the disputed domain name and provided a wrong address.

In view of the above, 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 <natixisinvestment.com> be transferred to the Complainant.

/Theda König Horowicz/

Theda König Horowicz

Sole Panelist

Date: May 21, 2024