

ADMINISTRATIVE PANEL DECISION

NATIXIS v. Phil Set

Case No. D2024-4236

1. The Parties

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

The Respondent is Phil Set, United States of America.

2. The Domain Name and Registrar

The disputed domain name <natixis-inv.com> (the “Domain Name”) 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 15, 2024. On October 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On October 15, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (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 17, 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 October 18, 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 October 22, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 11, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 13, 2024.

The Center appointed Wolter Wefers Bettink as the sole panelist in this matter on November 20, 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, the corporate, investment and financial services arm of the Groupe BPCE, the second largest banking group in France, with more than 16,000 employees in 36 countries.

The Complainant owns several trade marks containing the term NATIXIS, notably (hereafter the “Trade Marks”):

- French registration of word mark NATIXIS registered under No. 3416315, on August 18, 2006;
- European Union registration of word mark NATIXIS registered under No. 5129176, on June 21, 2007;
- International registration of device mark NATIXIS plus sign registered under No. 1071008, on April 21, 2010.

The Domain Name was registered on September 25, 2024, and resolves to an inactive error webpage.

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 Domain Name, on the following grounds.

The Domain Name is highly similar to the Trade Marks, as it incorporates the term NATIXIS in its entirety. NATIXIS has no meaning and is therefore highly distinctive. The Domain Name also incorporates the three letters “inv”, which could be perceived by the consumer as a short for the term “investment” or “invest”, and thus directly refers to the Complainant’s field of activity.

It is a well-established practice to disregard the generic Top-Level Domain (“gTLD”) suffix of a domain name like “.com”, when assessing whether a domain name is identical or confusingly similar to the mark in issue.

When searching for NATIXIS-INV, the Internet browser Google discloses results related to the Complainant.

Thus, there is a likelihood of confusion between the Domain Name and the Trade Marks. This risk is further accentuated by the fact that the Complainant notably operates under the name “Natixis Investment Managers”. Considering the above mentioned, the Complainant concludes that the Domain Name should be considered as confusingly similar to the Trade Marks.

With respect to the absence of rights and legitimate interest, a search on the Global Brand Database (“www.tmdn.org/tmview/#/tmview”) shows that the Respondent does not own any trade mark rights including the term NATIXIS-INV. A Google search made on “NATIXIS-INV” does not lead to pertinent results apart from results related to the Complainant. In addition, there is no business or legal relationship between the Complainant and the Respondent. The Complainant has neither authorized nor licensed the Respondent to use the Trade Marks in any way. Therefore, the Respondent is not commonly known under the term NATIXIS-INV. Furthermore, the Domain Name points to an error page, which cannot constitute a bona fide offering of goods or services or a legitimate noncommercial or fair use. The Complainant concludes that the Respondent has no rights or legitimate interest in respect of the Domain Name.

In respect of bad faith registration and use of the Domain Name, the Trade Marks are well-known in France and in several other countries. In addition, when registering the Domain Name, the Respondent employed a privacy service in order to hide its identity and to avoid being notified of a UDRP proceeding. Furthermore, the Domain Name was registered with the aim of taking advantage of the reputation of the Trade Marks.

The choice of the Domain Name cannot be a coincidence as the term NATIXIS has no meaning, so that the only reason for registering the Domain Name has been to create confusion in the public's mind, in order to carry out unlawful activities. It follows that the Respondent has intentionally registered a Domain Name identical to the Complainant's Trade Mark NATIXIS in order to enable him to conduct illegal activities.

Finally, it is to be noted that mail exchange ("MX") servers have been activated under the Domain Name, which implies a high risk that the Domain Name will be used for phishing or scams, in particular given the field of activity of the Complainant (namely banking and financial services). Indeed, an email originating from an address in the form "[username]@natixis-inv.com" would likely be understood to have originated with the Complainant.

At the time of the filing, the MX servers had been deactivated.

Finally, the Notice of Registrant information from the Center revealed that the Respondent seems to try to impersonate an executive officer of the Complainant.

The Complainant concludes that it is in the public interest to transfer the Domain Name to the Complainant in order to avoid that it be used for misleading consumers.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has shown that it has registered rights in the Trade Marks. The Domain Name is confusingly similar to the Trade Marks as it incorporates the word mark NATIXIS in its entirety. The addition of the term "inv" in the Domain Name does not avoid a finding of confusing similarity between the Domain Name and the Trade Marks (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8; see also, inter alia, *TPI Holdings, Inc. v. Carmen Armengol*, WIPO Case No. [D2009-0361](#), and *F. Hoffmann-La Roche AG v. John Mercier*, WIPO Case No. [D2018-0980](#)). The gTLD ".com" is typically disregarded under the confusing similarity test, since it is a technical registration requirement ([WIPO Overview 3.0](#), section 1.11.1). Therefore, the Panel finds that the Domain Name is confusingly similar to the Trade Marks in which the Complainant has rights.

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 (see [WIPO Overview 3.0](#), section 2.1.).

Based on the evidence and the undisputed submissions of the Complainant, the Panel concludes that the Respondent has not received the Complainant's authorization or consent to use the Trade Marks as part of the Domain Name, is not commonly known by the Domain Name, and has not acquired trade mark rights in the Domain Name. In addition, the Respondent's use of the Domain Name does not constitute a bona fide offering of goods or services, since the Domain Name resolves to an error page. In addition, the added term "inv" is likely to be understood as a reference to "investment", one of the main areas of activity of the Complainant, and as such, the composition of the Domain Name carries a risk of implied affiliation that cannot constitute fair use. Under these circumstances, the Respondent cannot be considered to make a legitimate noncommercial or fair use of the Domain Name.

In view of the above, the Panel concludes that the Complainant has established that the Respondent has no rights or legitimate interests in the Domain Name.

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. This list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, leaves open that other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. See [WIPO Overview 3.0](#), section 3.2.1.

Based on the undisputed information and the evidence provided by the Complainant, the Panel finds that at the time of registration of the Domain Name the Respondent was or should have been aware of the Trade Marks, since:

- the Respondent's registration of the Domain Name occurred more than 18 years after the registration of the earliest of the Trade Marks;
- the Respondent has incorporated the word mark NATIXIS in its entirety, and this is a coined term;
- a simple trade mark register search, or even an Internet search, prior to registration of the Domain Name would have informed the Respondent of the existence of the Trade Marks.

Since the Respondent has no authorization from or other affiliation with the Complainant and was or should have been aware of the Complainant's rights at the time of registration, the Domain Name was registered in bad faith.

In addition, the following circumstances taken together warrant a finding of bad faith use of the Domain Name:

- the probability that the Respondent was aware or should have been aware of the Complainant's rights in the Trade Marks;
- the lack of a formal Response of the Respondent;
- the composition of the Domain Name;
- the use of a privacy service in order to hide the Respondent's identity;
- the activation of MX records relating to the Domain Name to direct email to a mail server under the Domain Name which may suggest to recipients of any potential emails that they are originating in or authorized by the Complainant. While no evidence has been presented of such use, the Respondent's control over the Domain Name and these MX records represents an implied ongoing threat to the Complainant and Internet users that such phishing may be conducted.

On the basis of all of the above, the Panel concludes that the Domain Name has been registered and is being used in bad faith.

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-inv.com> be transferred to the Complainant.

/Wolter Wefers Bettink/

Wolter Wefers Bettink

Sole Panelist

Date: December 4, 2024