

ADMINISTRATIVE PANEL DECISION

Natixis v. Sahir Sahir
Case No. D2022-0098

1. The Parties

The Complainant is Natixis, France, represented by Inlex IP Expertise, France.

The Respondent is Sahir Sahir, Indonesia.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 12, 2022. On January 13, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 13, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on January 25, 2022 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 January 26, 2022.

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 February 1, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 21, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 22, 2022.

The Center appointed Angelica Lodigiani as the sole panelist in this matter on March 2, 2022. 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 company operating in the financial field and 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.

The Complainant is the owner of the following trademarks:

- NATIXIS (word), French trademark registration No. 3416315, filed on March 14, 2006, for goods and services in classes 9, 16, 35, 36 and 38;
- NATIXIS (word), EUTM registration No. 5129176, filed on June 12, 2006, for goods and services in classes 9, 16, 35, 36 and 38;
- NATIXIS (figurative), international trademark registration No. 1071008, filed on April 21, 2010, for goods and services in classes 9, 16, 35, 36 and 38.

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

The disputed domain name was registered on December 27, 2021, and leads to a parking page reproducing the Complainant's trademark and displaying competing pay-per-click links.

5. Parties' Contentions

A. Complainant

The Complainant maintains that the disputed domain name is identical or confusingly similar to the Complainant's trademark as it incorporates it entirely and the generic Top-Level Domain ".shop" is not relevant to assess the identity/similarity of the signs.

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name. In particular, the Respondent does not own any NATIXIS trademark and has no business or legal relationship with the Complainant. The Complainant never authorized the Respondent to use its NATIXIS mark in any manner whatsoever. The Respondent is not known by the disputed domain name and is not engaging in any legitimate noncommercial or fair use of the disputed domain name, nor use in connection with a *bona fide* offering of goods and services. The Respondent's use of the disputed domain name in connection with a parking page displaying competing pay-per-click links does not represent a *bona fide* offering of goods and services, or a legitimate noncommercial use of the disputed domain name. In addition, the fact that the disputed domain name incorporates the Complainant's trademark, suggests an affiliation with the Complainant.

Finally, the Complainant affirms that the disputed domain name was registered and has been used in bad faith. The trademark NATIXIS enjoys wide reputation in France and internationally. It is therefore unlikely that the Respondent was not aware of the Complainant's activity and trademark when it registered the disputed domain name. Moreover, at the time of the registration of the disputed domain name, the Respondent employed a privacy service in order to hide its identity. The Respondent is also involved in another UDRP proceeding for the domain name <natixis.store>, as such demonstrating that it is engaged in a cybersquatting activity against the Complainant.

The Complainant finds that the disputed domain name was registered to mislead consumers and take unfair economic advantage from the reputation of the NATIXIS mark. The disputed domain name gives access to a parking page containing pay-per-click links targeting the industry of the Complainant. The Respondent has added MX records to the disputed domain name. Accordingly, there is a high risk that the disputed domain

name be used in connection with phishing and scams. This circumstance is even more worrying in that the Complainant is active in the financial and banking field and the Respondent could use the disputed domain name to collect fraudulently personal data for some malicious use.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Panel finds that the disputed domain name is identical to the NATIXIS trademark, as the latter is entirely incorporated in the disputed domain name and the new generic Top-Level Domain ".shop", may be disregarded in the assessment of identity or confusing similarity between the disputed domain name and the Complainant's mark (section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)")).

Under these circumstances, the Panel finds that the disputed domain name is identical to the NATIXIS mark relied upon in the Complaint.

The Complainant has therefore satisfied this element of the Policy.

B. Rights or Legitimate Interests

While the overall burden of proof rests with the complainant, UDRP panels have recognized that this could result in the often impossible task of proving a negative, requiring information that is often primarily within the knowledge of the respondent. As such, where a complainant makes a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

In the case at issue, the Panel finds that the Respondent is not authorized to reflect the Complainant's trademark in the disputed domain name, and that the Respondent does not appear to have been commonly known by the name "natixis".

At the time of the filing of this Complaint, the disputed domain name resolved to a parking page containing competing pay-per-click links. This use does not amount to a *bona fide* offering of goods or services, or to a noncommercial and fair use of the disputed domain name. According to paragraph 2.9 of the [WIPO Overview 3.0](#), "[a]pplying UDRP paragraph 4(c), panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users."

The Respondent had the opportunity to rebut the Complainant's arguments in support of the Respondent's lack of rights or legitimate interests in the disputed domain name, but failed to do so by not filing a Response.

Therefore, the Panel finds that also the second condition under the Policy has been met.

C. Registered and Used in Bad Faith

The Panel agrees with the Complainant that the disputed domain name was registered and has been used in bad faith.

As far as registration is concerned, the Panel finds that the Complainant's trademark is highly distinctive and enjoys reputation. The NATIXIS mark is uniquely associated to the Complainant and the disputed domain name is identical to the Complainant's trademark. The registration of a domain name, identical to a third party's renowned trademark, by an unaffiliated entity can by itself create a presumption of bad faith (section 3.1.4 of the [WIPO Overview 3.0](#)). In the circumstances of this case, the Panel finds that the Respondent registered the disputed domain name in bad faith.

Concerning use in bad faith, the Panel notes that the disputed domain name leads to a parking page containing pay-per-click links relating to the Complainant's activity. This use is certainly not a use in good faith as the Respondent is capitalizing on the reputation of the Complainant's trademark in order to generate undue profit from each link appearing on the parking page.

Furthermore, the Respondent has also registered the domain name <natixis.store>, which is identical to the Complainant's trademark. This circumstance is evidence of the fact that the Respondent is pursuing a strategy of bad faith, through the impersonation of the Complainant, in order to take unfair advantage of the reputation of the Complainant's trademark and activity, for its undue economic advantage.

The Respondent has set up MX records for the disputed domain name, which are likely to mislead consumers as to the origin of the emails they may receive. This can cause significant damages to the Complainant, which operates in the banking field, as the emails received from consumers could serve the Respondent to fraudulently collect personal data through phishing campaigns.

Lastly, the Respondent appears to have employed a privacy service, and to have provided inaccurate contact information at the time of the registration of the disputed domain name (as shown by the Complainant in the amended Complaint, also supported by the fact that the delivery of the Written Notice by courier was not possible), which further affirms the Panel's finding of bad faith.

In light of the above, the Panel finds that also the third and last condition under the Policy has been met.

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.shop> be transferred to the Complainant.

/Angelica Lodigiani/

Angelica Lodigiani

Sole Panelist

Date: March 16, 2022