

## **ADMINISTRATIVE PANEL DECISION**

NATIXIS v. chambon gilbert

Case No. D2023-4947

### **1. The Parties**

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

The Respondent is chambon gilbert, France.

### **2. The Domain Name and Registrar**

The disputed domain name <natixis-corporate.com> is registered with Namecheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 28, 2023. On November 28, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same date, 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 (Redacted for Privacy / Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 1, 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 December 1, 2023.

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 December 13, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 2, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 3, 2024.

The Center appointed Alexandre Nappey as the sole panelist in this matter on January 24, 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 specialized in asset & wealth management, corporate & investment banking, insurance, and payments. The Complainant is part of the Groupe BPCE. Groupe BPCE is the second largest banking group in France.

The Complainant owns several French, European Union and International trademark registrations, registered since 2006, composed of the term "NATIXIS", notably:

- French Trademark registration NATIXIS n° 3416315, filed on March 14, 2006 (live)
- European Union Trademark registration NATIXIS n° 5129176, filed on June 12, 2006 and registered on June 21, 2007 (live)
- International Trademark registration NATIXIS (figurative) n° 1071008, registered on April 21, 2010 (live)

The Complainant is also the owner of domain names containing its NATIXIS trademark, and notably:

- <natixis.com> registered on February 3, 2005
- <natixis.fr> registered on October 20, 2006.

The Complainant is widely using NATIXIS trademarks in connection with banking and financial services.

The disputed domain name <natixis-corporate.com> was registered on October 24, 2023.

According to the Complainant, it used to point to a parking page hosting hyperlinks to third-party websites. The disputed domain name was also used to send at least one fraudulent email offering subscription for investment products to a Complainant's client. At the time of the Decision, the disputed domain name is not active.

#### **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.

First, the Complainant claims that the disputed domain name <natixis-corporate.com> is highly similar to the Complainant's trademark NATIXIS, as it incorporates it in its entirety. It is worth pointing out that NATIXIS has no meaning and is therefore highly distinctive.

Moreover, in addition to incorporating the trademark NATIXIS, the disputed domain name also incorporates the word "corporate", which is a descriptive/generic term.

Thus, there is a likelihood of confusion between the disputed domain name and the Complainant's prior trademarks rights. This risk is further accentuated by the fact that the Complainant operates under the name "Natixis Corporate & Investment Banking".

Then, the Complainant asserts that 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 the name "natixis-corporate";
- According to a search on the Global Brand Database, the Respondent does not own any trademark rights including "natixis-corporate";
- there is no business or legal relationship between the Complainant and the Respondent. The Complainant has neither authorized nor licensed the Respondent to use its trademarks in any way;
- a Google search made on "natixis-corporate" does not lead to pertinent results apart from results related to the Complainant. The Respondent does not appear to engage in any legitimate noncommercial or fair use of the disputed domain name, nor any use in connection with bona fide offering of goods or services;
- the disputed domain name points to a parking page. In any case, this use cannot constitute a bona fide offering of goods or services or a legitimate noncommercial or fair use.

Third, the Complainant asserts that the disputed domain name was registered and is being used in bad faith.

- The trademarks NATIXIS are well known in France and in several other countries: with more than 16,000 employees in 36 countries, the Complainant is the corporate, investment and financial services arm of BPCE Group, France's second-largest banking player.
- When registering the disputed domain name, the Respondent employed a privacy service in order to hide its identity and to avoid being notified of a UDRP proceedings: this is an inference of bad faith.
- MX records are activated, and the disputed domain name is used to send fraudulent emails: a fraudulent email address [...]@natixis-corporate.com has been created and used to commit scams. With this fraudulent email, the Respondent offers subscriptions to financial investments. This kind of scam can be very harmful for both the Complainant and its clients.
- The Complainant affirms that the Respondent has intentionally registered an identical domain name to the Complainant's trademark NATIXIS to give itself over to illegal activities.
- Finally, the postal address mentioned by the Respondent seems incorrect: this misrepresentation is obvious evidence of bad faith registration.

## **B. Respondent**

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

## **6. Discussion and Findings**

Notwithstanding the default of the Respondent, the Complainant has the burden of proof to make its case in accordance with paragraph 4(a) of the Policy, and to demonstrate that:

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

However, under paragraph 14(b) of the Rules, where a Party does not comply with any provision of the Rules, the Panel "shall draw such inferences therefrom as it considers appropriate".

Having considered the Parties' submissions, the Policy, the Rules, the Supplemental Rules and applicable law, the Panel's findings on each of the above-mentioned elements are the following:

### **A. Identical or Confusingly Similar**

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.

Based on the available record, the Panel finds that the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. See [WIPO Overview 3.0](#), section 1.2.1

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. See [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here, "corporate," may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. See [WIPO Overview 3.0](#), section 1.8.

The Panel therefore finds that 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.

Panels have held that the use of a domain name for illegal activity claimed as applicable to this case: phishing and/or impersonation, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. The use of a domain to host a parked page comprising pay-per-click links also does not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of a complainant's mark or otherwise mislead Internet users. See [WIPO Overview 3.0](#), section 2.9.

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

### C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

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.

In the present case, the Panel notes that the Respondent had necessarily the Complainant's trademark in mind when it registered the disputed domain name, considering that the Complainant has established goodwill and reputation on the NATIXIS trademark and that the disputed domain name incorporates that trademark in its entirety.

Indeed, the Respondent knew or should have known of the Complainant's trademarks and deliberately registered the disputed domain name. [WIPO Overview 3.0](#), section 3.2.2. Such finding is reinforced by the fact that the Complainant submitted printouts showing that the Respondent created a fraudulent email address [...]@natixis-corporate.com and used it to commit scams. With this fraudulent address, the Respondent sent an email to at least one of the Complainant's customers and offered subscriptions to financial investments.

Further, the disputed domain name resolves to a parking page hosting hyperlinks to third-party websites. It appears therefore that the Respondent, by referring to the NATIXIS trademark in the disputed domain name, is trying to create a likelihood of confusion to attract, for commercial gain, Internet users to its own website.

Accordingly, the Panel finds that the Respondent registered the disputed domain name with the Complainant in mind and with the intention of capitalizing on the reputation of the Complainant within the meaning of paragraph 4(b)(iv) of the Policy.

Panels have held that the use of a domain name for illegal activity as applicable to this case: phishing, and impersonation constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

Based on the available record, 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 <natixis-corporate.com> be transferred to the Complainant.

*/Alexandre Nappey/*

**Alexandre Nappey**

Sole Panelist

Date: February 7, 2024