

## **ADMINISTRATIVE PANEL DECISION**

Natixis v. Whois Privacy Protection Foundation / Bogdan Dinulescu, Rauh Welt SRL

Case No. D2022-1253

### **1. The Parties**

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

The Respondent is Whois Privacy Protection Foundation, Netherlands / Bogdan Dinulescu, Rauh Welt SRL, Romania.

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

The disputed domain name <natix-investments.com> is registered with Hosting Concepts B.V. d/b/a Registrar.eu. (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 8, 2022. On April 11, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 12, 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 April 12, 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 April 14, 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 April 19, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 9, 2022. On April 20, 2022, the Center received two informal email communications from the Respondent, stating that he had registered the disputed domain name on behalf of a company called NATIX s.r.o.

The Center appointed Knud Wallberg as the sole panelist in this matter on May 17, 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.

On June 8, 2022, the Panel Issued Administrative Panel Procedural Order No. 1 (“Panel Order No. 1”), requesting NATIX s.r.o. to indicate whether it intends to participate in the present proceeding and the Respondent to provide evidence of the exact nature of his relationship with its apparent client (the beneficial holder of the domain name registration), NATIX s.r.o. The addressed parties did not submit any reply to the said Panel Order No. 1.

#### **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 resolves to a website promoting the Complainant’s services.

The disputed domain name was registered on March 19, 2022. The disputed domain name initially pointed to a login page, prompting users to insert their username and password. Following notice and takedown demand from the Complainant to the concerned Registrar, the disputed domain name is no longer associated with an active website.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The Complainant asserts that the disputed domain name is confusingly similar to its prior rights. The disputed domain name comprises the first five letters of the Complainant’s mark and adds a hyphen and the word “investments”. The element “NATIX” will be perceived as the distinctive and dominant element of the disputed domain name as it has no meaning, it is placed in leading position, and the word “investments” is descriptive of the Complainant’s activities.

The Complainant further asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name. 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 nor is the Respondent commonly known as “natix” or “natix-inestments”. The Respondent does not have rights or legitimate interest in the disputed domain name. 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 goods and services. The disputed domain name initially pointed to a login page, prompting users to insert their username and password but it is not possible to conceive of any innocent explanation for the creation by the Respondent of a login page. On the contrary, this was evidently an attempt by the Respondent to deceive Internet users and obtain (at least) personal information from them. The presence of a login page on the website found at the disputed domain name thus indicates the website seems designed for fraudulent purposes

The Complainant finally asserts that the disputed domain name was registered and is being used with the aim of taking advantage of the reputation of the Complainant’s well-known trademark NATIXIS. The NATIXIS mark enjoys a wide reputation not only in France but also around the world and it therefore seems unlikely that the Respondent was unaware of the Complainant’s activities and of the existence of the trademark. 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 disputed domain name initially resolved to a webpage requesting information from Internet users before being able to access the website. By doing this, the Respondent intentionally attempted to take advantage of the Complainant's trademark in order to obtain login information from the Complainant's clients via a login page but also via emails, since there were email services attached to the disputed domain name. Bearing in mind the close resemblance of the disputed domain name to the Complainant's trademark, it is likely that the general public receiving an email based on the disputed domain name at its address would mistakenly think it came from the Complainant, especially if the email was unsolicited. The Complainant therefore asserts, that there is a high risk that the disputed domain name may be used for phishing or scams, in particular given the field of activity of the Complainant namely banking and financial services.

## **B. Respondent**

The Respondent did not file a formal response but in two emails to the Center dated April 20, 2022, the Respondent asserted that he had registered the disputed domain name on behalf of a company called NATIX s.r.o. and that this company is registered with the National Bank of Czech Republic as an alternative investment fund. The Respondent filed two documents in Czech that allegedly proved the existence of the said company.

The Respondent also requested the Complainant to "provide proof and justification how the [disputed domain name] was considered to be a threat or a fraud when even on the print screens can be seen that there is a mother company with another name with another logo".

Finally, the Respondent stated that he had "requested to renounce and remove the registered domain".

## **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.

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

The disputed domain name comprises the first five letters of the Complainant's mark and adds a hyphen and the word "investments". The fact that the disputed domain name does not include the remainder of the Complainant's mark, being the letters "i" and "s", does not prevent it from being found confusingly similar to the Complainant's mark. As it is stated in section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"); "While each case is judged on its own merits, in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant

feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing”.

The letters “natix” comprise a dominant and recognizable part of the Complainant’s mark. The additional elements of the hyphen and the word “investments” do not prevent a finding of confusing similarity; see sections 1.8 and 1.9 of the [WIPO Overview 3.0](#).

The Panel therefore finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights and that the conditions in paragraph 4(a)(i) of the Policy are therefore fulfilled in relation to the disputed domain name.

### **B. Rights or Legitimate Interests**

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 Respondent claims that he registered the disputed domain name on behalf of a company called NATIX s.r.o. but the Respondent did not provide any proof that he was authorized or instructed by the said company to register and use the disputed domain name. The Panel therefore finds that the Respondent has not produced, and 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

Consequently, the Panel finds that the condition in paragraph 4(a)(ii) of the Policy is also fulfilled.

### **C. Registered and Used in Bad Faith**

Paragraph 4(a)(iii) of the Policy requires the Complainant to prove both registration and use of the disputed domain name in bad faith. Paragraph 4(b) of the Policy provides examples of circumstances which shall be evidence of registration and use in bad faith:

- (i) circumstances indicating that the respondent has registered or has 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 complainant, for valuable consideration in excess of the respondent’s documented out-of-pocket costs directly related to the domain name;
- (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;
- (iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor;
- (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.

Accordingly, for the Complainant to succeed, the Panel must be satisfied that the disputed domain name has been registered and is being used 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. The Complainant has however evidenced that the disputed domain name was previously used for a website which featured a login portal through which visitors could log in using their "Username" and "Password". The Panel finds that, the Respondent, by using a domain name that is confusingly similar to the Complainant's trademark rights in this way, made it possible for the Respondent to obtain and collect login credentials of unsuspecting Internet users seeking the Complainant's financial services, which is clearly bad faith use under paragraph 4(b)(iv) of the Policy and section 3.4 of [WIPO Overview 3.0](#).

The Panel notes the claim by the Respondent that the disputed domain name was registered for a client but that no reaction from such supposed client was forthcoming in reply to the issued Panel Order No. 1. Under these circumstances and noting that passive holding of a domain name does not prevent a finding of bad faith use under paragraph 4(a)(iii) of the Policy of section 3.3 of [WIPO Overview 3.0](#), and considering all the facts and evidence of the case, the Panel finds that the requirements of paragraph 4(a)(iii) of the Policy are also fulfilled in this case.

## 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, <natix-investments.com> be transferred to the Complainant.

*/Knud Wallberg/*

**Knud Wallberg**

Sole Panelist

Date: June 23, 2022