

## **ADMINISTRATIVE PANEL DECISION**

Natixis v. BARBAOUAT ROBERT

Case No. DEU2023-0002

### **1. The Parties**

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

The Respondent is BARBAOUAT ROBERT, France.

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

The Registry of the disputed domain name <natixirelation.eu> is the European Registry for Internet Domains ("EURid" or the "Registry"). The Registrar of the disputed domain name is INTERNET CZ, a.s.

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on January 6, 2023. On January 9, 2023, the Center transmitted by email to the Registry a request for registrar verification in connection with the disputed domain name. On January 12, 2023, the Registry transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the Complaint satisfied the formal requirements of the .eu Alternative Dispute Resolution Rules (the "ADR Rules") and the World Intellectual Property Organization Supplemental Rules for .eu Alternative Dispute Resolution Rules (the "Supplemental Rules").

In accordance with the ADR Rules, Paragraph B(2), the Center formally notified the Respondent of the Complaint, and the proceedings commenced on January 17, 2023. In accordance with the ADR Rules, Paragraph B(3), the due date for Response was February 6, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 10, 2023.

The Center appointed Marie-Emmanuelle Haas as the sole panelist in this matter on February 13, 2023. 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 ADR Rules, Paragraph B(5).

#### **4. Factual Background**

The Complainant owns several French, European Union, and International prior rights registered since 2006, composed of the term "NATIXIS", in connection with banking and financial services, notably:

- French Trademark registration NATIXIS n°3416315, filed on March 14, 2006
- European Union Trade mark registration NATIXIS n°5129176, filed on June 12, 2006, and registered on June 21, 2007

The Complainant is also the owner of the following domain names:

- <natixis.com> filed on February 3, 2005
- <natixis.fr> filed on October 20, 2006
- <natixis.eu> filed on June 7, 2006

The disputed domain name was registered on July 17, 2022, and does not resolve to any website.

A mail exchanger server (MX Server) is recorded, what means that an email server is associated with the disputed domain name.

#### **5. Parties' Contentions**

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

The Complainant widely uses NATIXIS trademarks in connection with banking and financial services. The Complainant's reputed services proposed under the trademarks NATIXIS are well-known in France, European Union, and internationally.

With more than 16,000 employees in 36 countries, Natixis is the corporate, investment and financial services arm of BPCE Group, France's second-largest banking player.

Natixis received the Latin America MLA of the Year Award on July 13, 2020 as part of the 2019 IJGlobal Awards, which celebrates best-in-class transactions and organizations across the international infrastructure and energy sectors executed in the past year.

The yearly Euromoney Fixed Income Research Survey, which polls more than 1,500 fund managers and investors worldwide, has ranked Natixis No. 4 for European Fixed Income Research.

Natixis ranks first bookrunner for syndicated real-estate finance loans in the EMEA region in 2017, according to Dealogic (EMEA Real Estate Loans Report, Full-year 2017). Natixis is also leader in equity research in France in 2017 (source: Thomson Reuters Analyst Awards 2017) and at the first place in impact management (source: Finansol "Zoom sur la finance solidaire", 2015 edition based on solidarity-based assets at end-December 2014).

The French Association of Financial Management (AFG) also awarded Natixis as number one account keeper for 13 employee savings, in 2015 and according to Thomson Reuters Global Project Finance Review, Natixis was number one bookrunner for project finance.

##### **Confusing similarity**

The NATIXIS trademark and the disputed domain name have 6 identical letters placed in the same order and at the same rank that creates a high visual similarity:

**NATIXIS**  
**NATIXIRELATION**

The deletion of the sixth letter “s” and the addition of the term “relation” does not prevent confusing similarity.

The Complainant relies on a prior similar case, *Natixis v. Privacy service provided by Withheld for Privacy ehf / Laurent PALLOMBA*, WIPO Case No. [D2022-1881](#), regarding the domain name <natixi-direct.com>.

The Panel decided that “The disputed domain name incorporates the Complainant’s NATIXIS trademark almost in its entirety. Indeed, it differs from the Complainant’s trademark by one letter: letter “s” is removed. The addition of “.com” in the disputed domain name does not prevent confusing similarity. This is also the case for the additional term “direct”. The Complainant asks to transpose this decision to this case.

**The Respondent has no rights or legitimate interests in the disputed domain name**

First, the Respondent has no rights including trademark rights in respect of the name NATIXIRELATION. According to a search on the Global Brand Database, the Respondent does not own any trademark rights including NATIXIRELATION.

It is also worth pointing out that 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.

Besides, a Google search made on NATIXIRELATION does not lead to pertinent results. Searches made on NATIXI RELATION and NATIXI disclose results related to the Complainant

It results from the above that the Respondent is not commonly known as “NATIXIRELATION” or “NATIXI”.

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.

Moreover, the disputed domain name points to an error page.

Furthermore, the nature of the litigious domain name carries a risk of implied affiliation with the Complainant. The registration of the litigious domain name is highly suspicious, and we can reasonably assume that this domain name has been registered in bad faith in order to mislead the consumer.

Given, the reputation of the NATIXIS trademark, it would be difficult to imagine an actual use of the disputed domain name that would not be aimed to free ride on the reputation of the Complainant and its trademark.

Consequently, any use of such domain name would misleadingly divert consumers into thinking that the Respondent is, in some way, connected to, sponsored by or affiliated with the Complainant and its business or that the Respondent’s activities are approved or endorsed by the Complainant. In particular, and as it will be demonstrated below, this domain name has been registered in bad faith in order to mislead the consumer.

For all the above-mentioned reasons, it should be concluded that the Respondent has no rights or legitimate interest in respect of the domain name.

**Domain name registration and bad faith**

The disputed domain name is registered with the aim of taking advantage of the reputation of the well-known trademark NATIXIS of the Complainant trademarks.

It is worth pointing out that a Google search for the sign NATIXIS gives 5,880,000 results.

It is suspected that the Respondent was intentionally attempting to take advantage of the Complainant's trademark in order to generate profits with email services attached to the disputed domain name which almost reproduces the Complainant's trademark NATIXIS. This is obvious since MX Records attached to the disputed domain name were activated while the disputed domain name didn't resolve to an active website or webpage.

The Complainant relies on a UDRP case explaining that "since the MX records attached to the disputed domain name have been activated, along with the nature of the disputed domain name (being a typo-squatting version of the mark), the Panel deems that there is a high risk that the disputed domain name is likely to be used for phishing activities, especially considering the Complainant's financial business" (*MIROVA v. Redacted for Privacy / Tod Francis, Francis Trucking Inc*, WIPO Case No. [D2020-2148](#)).

It is therefore in the public interest to transfer the disputed domain name to the Complainant in order to avoid that the disputed domain name be used for misleading the consumers.

## **B. Respondent**

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

## **6. Discussion and Findings**

According to Article 4.4 "Registration and revocation of domain names" of the Regulation (EU) 2019/517 on the implementation and functioning of the .eu top-level domain name:

"A domain name may also be revoked, and where necessary subsequently transferred to another party, following an appropriate ADR or judicial procedure, in accordance with the principles and procedures on the functioning of the .eu TLD laid down pursuant to Article 11, where that name is identical or confusingly similar to a name in respect of which a right is established by Union or national law, and where it:

- (a) has been registered by its holder without rights or legitimate interest in the name; or
- (b) has been registered or is being used in bad faith. "

The criteria (a) and (b) provided in Article 4.4 are alternative.

### **A. Identical or Confusingly Similar to a name in respect of which a right or rights are recognized or established by national law of a Member State and/or European Union law**

The Panel has to decide if the disputed domain name "is identical or confusingly similar to a name in respect of which a right is established by Union or national law", as provided in the here above cited Article 4.4 "Registration and revocation of domain names" of the Regulation (EU) 2019/517.

The Complainant is the owner of the following NATIXIS trademarks:

- French Trademark registration NATIXIS n°3416315, filed on March 14, 2006;
- European Union Trade Mark registration NATIXIS n°5129176, filed on June 12, 2006, and registered on June 21, 2007.

The Complainant asserts that <natixirelation.eu> is confusingly similar to its prior NATIXIS trademarks.

The disputed domain name <natixirelation.eu> incorporates the Complainant's NATIXIS trademark almost in its entirety. Indeed, it differs from the Complainant's trademark by the deletion of the letter "s" and the addition of term "relation".

This the same pattern as in the prior cited *Natixis v. Privacy service provided by Withheld for Privacy ehf / Laurent PALLOMBA*, WIPO Case No. [D2022-1881](#) for <natixi-direct.com><sup>1</sup>.

The Respondent has engaged in typosquatting, a practice by which a registrant deliberately introduces slight deviations into a third party's trademark, to register the disputed domain name, that is confusingly similar to the targeted trademark.

The addition of the generic term "relation" does not avoid the confusing similarity.

Therefore, the Panel is of the opinion that the disputed domain name is confusingly similar to the Complainant's NATIXIS trademarks

### **B. Rights or Legitimate Interests; Registered or Used in Bad Faith**

The Respondent did not use the possibility to contest the complaint to rebut the Complainant's position.

The searches that were conducted prove that the Respondent does not own any NATIXIRELATION registered trademark.

The Complainant asserts that it does not know the Respondent who is domiciled in France.

The Complainant's financial activity is strictly regulated, in order to protect the public.

It appears according to the Complainant that the Respondent targeted the well-known NATIXIS trademark when he registered the disputed domain name, probably with the intent to create email addresses and use them to send emails to Internet users, who will be misled about the origin of the message.

Such a practice would expose both the Complainant, its clients and Internet users to risks of fraud, as well as harm the reputation of the Complainant on its well-known NATIXIS trademark.

While the activation of the MX records in itself is not conclusive of a fraudulent attempt, the Panel notes the nature of the disputed domain name, that the Complainant operates in the financial sector, and the activated MX records, which together reasonably support Complainant's un rebutted claim of the Respondent having registered the disputed domain name likely for fraudulent purposes.

Where a Complainant makes out a *prima facie* case that the Respondent lacks a right or legitimate interest, the burden of proof on this element shifts to the Respondent. If the Respondent fails to come forward with such relevant evidence, the Complainant is deemed to have satisfied the second element.

Under these circumstances, the Panel is of the opinions that the disputed domain name was registered without any right or legitimate interest in the meaning of Article 4.4 "Registration and revocation of domain names" of the Regulation (EU) 2019/517.

Since the criteria set forth by this regulation are alternative, there is no need to discuss the bad faith registration or use. However, for completeness, the Panel finds that the Respondent registered the disputed domain name due to its similarities with the Complainant's NATIXIS trademark, and the fact that the disputed domain name does not resolve to an active website does not prevent the Panel's finding of bad faith.

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<sup>1</sup> Panels in cases decided under the ADR Rules have considered that there are substantive similarities between the ADR Rules and the UDRP, and have referred to decisions rendered under the UDRP, where appropriate.

For all the foregoing reasons, in accordance with Paragraph B 12 of the Rules, the Panel finds that the Complainant has satisfied all the requirements of Article 4.4 of the Regulation (EU) 2019/517.

## 7. Decision

For the foregoing reasons, in accordance with Paragraph B(11) of the ADR Rules, the Panel orders that the disputed domain name <natixirelation.eu> be transferred to the Complainant<sup>2</sup>. The Complainant is a French company domiciled in France, and satisfies the general eligibility criteria for registration set out in Article 3 of Regulation (EU) 2019/517.

*/Marie-Emmanuelle Haas/*

**Marie-Emmanuelle Haas**

Sole Panelist

Date: February 27, 2023

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<sup>2</sup> The decision shall be implemented by the Registry within thirty (30) days after the notification of the decision to the Parties, unless the Respondent initiates court proceedings in a Mutual Jurisdiction, as defined in Paragraph A(1) of the ADR Rules.