

ADMINISTRATIVE PANEL DECISION

Natixis v. catello fabio di martino

Case No. DEU2023-0016

1. The Parties

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

The Respondent is catello fabio di martino, Italy.

2. The Domain Name, Registry and Registrar

The Registry of the disputed domain name <natixinvestments.eu> (the “Domain Name”) is the European Registry for Internet Domains (“EURid” or the “Registry”). The Registrar of the Domain Name is Aruba S.p.A.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 23, 2023. On May 24, 2023, the Center transmitted by email to the Registry a request for registrar verification in connection with the Domain Name. On May 25, 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 July 6, 2023. In accordance with the ADR Rules, Paragraph B(3), the due date for Response was July 26, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 27, 2023.

The Center appointed Indrek Eelmets as the sole panelist in this matter on August 2, 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).

In accordance with Paragraph A(3)(a) of the ADR Rules, “unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the ADR Proceeding shall be the language of the Registration Agreement for the disputed domain name”. The language of the Registration Agreement for the Domain Name is Italian. Following the Complainant’s request, the panel decided that the language of the proceeding shall be English (see *Natixis v. catello fabio di martino*, WIPO Case No. DEUL2023-0002).

On August 2, 2023, after appointment of the Panel, the Respondent sent an email in Italian to the Center, informing that the Domain Name is not used and asking to close the procedure.

4. Factual Background

The Complainant is a French multinational financial services firm specialized in asset and wealth management, corporate and investment banking, insurance and payments with more than 16,000 employees in 36 countries. Natixis is the corporate, investment and financial services arm of BPCE Group, the second largest banking group in France. The Complainant’s net revenues in 2020 exceeded EUR 7 billion.

The Complainant holds a portfolio of registrations for the trademark NATIXIS, and variations of it, in numerous jurisdictions, notably French Trademark Registration No. 3416315, filed on March 14, 2006, and European Union Trademark registration No. 5129176, filed on June 12, 2006.

The Complainant owns a number of domain names that incorporate its trademark including <natixis.com> created on February 3, 2005 and <natixis.eu> created on June 7, 2006.

The Domain Name was registered on March 21, 2023, by the Respondent. On the date of the Decision, the Domain Name resolves to an inactive webpage.

5. Parties’ Contentions

A. Complainant

The Complainant cites its French Trademark Registration No. 3416315 filed on March 14, 2006, European Union Trademark registration No. 5129176, filed on June 12, 2006 and numerous other registrations around the world, for the mark NATIXIS as *prima facie* evidence of ownership.

The Complainant submits that the mark NATIXIS is well known and that its rights in that mark predate the Respondent’s registration of the Domain Name. It submits that the Domain Name is confusingly similar to its trademark, because the Domain Name comprises the first five letters of the Complainant’s mark and adds the word “investments”. The Complainant finds it obvious that the element “natix” will be perceived as the distinctive and dominant element of the Domain Name as it has no meaning and is highly distinctive, it is placed in leading position and the word “investments” is descriptive of the Complainant’s activities as the Complainant offers investments solutions. The Complainant further points out that when searching for “natixinvestments”, the Internet browser Google automatically discloses results related to the Complainant. Based on all these elements the Complainant concludes that the Domain Name is a typosquatting case.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the Domain Name because:

- the Respondent has no rights including trademark rights in respect of the name “natixinvestments”;
- the Complainant has neither authorized nor licensed the Respondent to use its trademarks in any way;
- The Domain Name resolves to an inactive webpage.

Finally, the Complainant alleges that the registration and use of the Domain Name was, and currently is, in bad faith and submits that the Domain Name has been registered with the aim of taking advantage of the well-known trademarks NATIXIS of the Complainant.

B. Respondent

The Respondent did not reply to the Complainant's contentions. On August 2, 2023, after appointment of the Panel, the Respondent sent an email (in Italian) to the Center in which he explained that the Domain Name is not used, and another domain name (<natixinvestments.com>) was abandoned due to the intellectual property disputes. The Respondent asked to close the procedure.

6. Discussion and Findings

Pursuant to Paragraph B(11)(d) of the ADR Rules the Panel shall issue a decision granting the remedies requested by the Complainant in the event that the Complainant proves the following three elements:

- (i) The domain name is identical or confusingly similar to a name in respect of which a right is recognized or established by the national law of a Member State and/or European Union law and; either
- (ii) The domain name has been registered by the Respondent without rights or legitimate interest in the name; or
- (iii) The domain name has been registered or is being used in bad faith.

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 finds that the Complainant has established that it has rights in the NATIXIS trademark in France and the European Union.

As to whether the Domain Name is identical or confusingly similar to the NATIXIS trademark, the Panel observes that the Domain Name comprises: (a) the word "natix", (b) followed by "investments", and (c) the country code Top-Level Domain ("ccTLD") ".eu".

The Panel finds that "natix" is entirely included in the Complainant's trademark NATIXIS and, as such, the Domain Name contains sufficiently recognizable aspects of the Complainant's mark (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.9)¹. The addition of the word "investments" does not prevent a finding of confusing similarity. Further, it is accepted that the ccTLD ".eu" should be disregarded for assessing identity or confusing similarity.

In view of the above, the Panel finds that the Domain Name is confusingly similar to the Complainant's trademark.

Therefore, the Panel holds that the Complainant has established the first element of Paragraph B(11)(d)(1)(i) of the ADR Rules.

B. Rights or Legitimate Interests

Paragraph B(11)(e) of the ADR Rules outlines circumstances that if found by the Panel to be proved shall demonstrate the Respondent's rights or legitimate interests in the disputed domain name. These circumstances are:

¹ Considering the similarities between the ADR Rules and the Uniform Domain Name Dispute Resolution Policy ("UDRP"), the Panel also refers to the WIPO Overview 3.0, where appropriate.

- (1) prior to any notice of the dispute, the Respondent has used the domain name or a name corresponding to the domain name in connection with the offering of goods or services or has made demonstrable preparation to do so;
- (2) the Respondent, being an undertaking, organisation or natural person, has been commonly known by the domain name, even in the absence of a right recognised or established by national and/or European Union law;
- (3) the Respondent is making a legitimate and noncommercial or fair use of the domain name, without intent to mislead consumers or harm the reputation of a name in which a right is recognised or established by national law and/or European Union law.

According to prior panel decisions, the complainant needs to make out a *prima facie* case that the respondent lacks rights or legitimate interests and then the burden of production of evidence shifts to the respondent to rebut the assertion that the respondent lacks rights or legitimate interests (see section 2.1 of the [WIPO Overview 3.0](#)).

The Respondent did not submit a formal reply to the Complainant's contentions. There is no evidence in the case file that the Respondent has any rights or legitimate interests in the Domain Name. The Complainant has not authorized or given consent to the Respondent to register the Domain Name confusingly similar to the NATIXIS trademark. Further, in the circumstances of this case, the Panel finds that the Respondent's lack of rights or legitimate interests in the Domain Name is supported by the fact that the Domain Name resolves to an inactive webpage.

The Panel finds that the Complainant has made out an un rebutted *prima facie* case. Accordingly, the Panel finds that the Complainant has established the second element of Paragraph B(11)(d)(1)(ii) of the ADR Rules.

C. Registered or Used in Bad Faith

Having established that the Domain Name is confusingly similar to the Complainant's trademark and that the Respondent lacks rights or legitimate interests in the Domain Name, it is not necessary for the Complainant to show, or for the Panel to make a decision, that the Respondent registered or is using the Domain Name in bad faith. However, for the sake of completeness of the case, the Panel concludes that the evidence and arguments submitted by the Complainant show that the Domain Name has been registered in bad faith by the Respondent.

The Panel notes that the Complainant is well known in the field of financial and investment services under the NATIXIS mark in France and other countries. The Panel considers it unlikely that the Respondent registered the confusingly similar Domain Name without prior knowledge of the Complainant and its services. The Panel also takes note of the evidence that when searching for "natixinvestments", an Internet search discloses results related to the Complainant. Thus, the Panel concludes that the Respondent was motivated to take unfair advantage of the Complainant's trademark. Furthermore, under the circumstances of the case, the non-use of the Domain Name does not prevent a finding of bad faith.

Consequently, the Panel finds that the Complainant has also established the third element of Paragraph B11(d)(1)(iii) of the ADR Rules.

7. Decision

For the foregoing reasons, in accordance with Paragraph B(11) of the ADR Rules, the Panel orders that the Domain Name <natixinvestments.eu> be transferred to the Complainant.²

/Indrek Eelmets/

Indrek Eelmets

Sole Panelist

Date: August 16, 2023

² (i) 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.

(ii) The Complainant is a company established in a Member State and therefore satisfies the general eligibility criteria for registration set out in Article 3 of Regulation (EU) 2019/517.