

ADMINISTRATIVE PANEL DECISION RELATED TO THE REQUEST TO CHANGE THE LANGUAGE OF THE ADR PROCEEDING

Natixis v. catello fabio di martino

Case No. DEUL2023-0002

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 disputed domain name is <natixinvestments.eu>.

The Registry of the disputed domain name is the European Registry for Internet Domains ("EURid" or the "Registry"). The Registrar of the disputed domain name is Aruba S.p.A.

3. Procedural History

The Request to Change the Language of the ADR Proceeding (the "Request") was filed in English with the WIPO Arbitration and Mediation Center (the "Center") pursuant to the .eu Alternative Dispute Resolution Rules (the "ADR Rules"), Paragraph A(3)(b), on March 27, 2023. On March 28, 2023, the Center transmitted by email to the Registry a request for registrar verification in connection with the disputed domain name. On March 29, 2023, the Registry 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 (Not disclosed) and contact information in the Request. The Center sent an email communication to the Complainant on April 12, 2023, providing the registrant and contact information disclosed by the Registry, and inviting the Complainant to submit an amendment to the Request. The Complainant filed an amended Request on April 12, 2023.

In accordance with the ADR Rules, Paragraph A(3)(b)(3), the Center formally notified the Respondent of the Request in both English and Italian, and the proceedings commenced on April 13, 2023. In accordance with the ADR Rules, Paragraph A(3)(b)(4), the due date for Response was April 25, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 1, 2023.

The Center appointed Marina Perraki as the sole panelist in this matter on May 5, 2023, in accordance with the ADR Rules, Paragraph A(3)(b)(4). 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 in this administrative proceeding is a company incorporated in France. The Respondent is located in Italy. The language of the registration agreement is Italian. The Domain Name was registered on March 21, 2023 and leads to a blank page.

The Registrar confirmed that the language of the registration agreement of the Domain Name is Italian.

5. Parties' Contentions

A. Complainant

The Complainant requests a change of the language of the ADR Proceeding in accordance with Paragraph A(3)(a) of the ADR Rules from Italian into English and asserts that it has established circumstances that justify the acceptance of such Request.

The Complainant puts forward the following reasons:

- the domain extension ".eu" is a supranational character and targets consumers from all over the European Union who are more likely to be familiar with English language than with Italian language,
- English is the business language,
- the Respondent appears to have some knowledge of English as the domain name includes the word "investments", which has no meaning in Italian;
- the Registrar Aruba S.p.A. provides an English translation of its website,
- the Complainant is a French company which operates notably in France and English speaking countries, and it would cause significant expenses and delay if the Complainant was required to use Italian as the communication language;
- the registration of the Domain Name is a cybersquatting case. Holders of trademarks such as Complainant are very frequently exposed to cybersquatting cases and have therefore to continuously defend their rights against fraudulent domain names reservations. It is important to ensure fairness to the Parties and the maintenance of an inexpensive and expeditious avenue for resolving domain name disputes. Language requirements should not lead to undue burdens being placed on the Parties and undue delay to the proceeding.

B. Respondent

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

6. Discussion and Findings

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. In the absence of an agreement between the Parties, the Panel may in its sole discretion, having regard to the circumstances of the ADR Proceeding, decide on the written request of a Complainant that the language of the ADR Proceeding will be different than the language of the Registration Agreement for the disputed domain name."

The Panel has not been made aware of any agreement between the parties pertaining to the language of the proceedings.

In accordance with the general powers attributed to the Panel under Paragraph B(7)(b) and (c) of the ADR Rules, the Panel shall ensure on the one hand side that the Parties are treated fairly and with equality, and shall ensure, on the other hand, that the ADR Proceeding takes place with due expedition.

It is recognized that the ADR Rules are considered a variation of the Uniform Domain Name Dispute Resolution Policy (the “UDRP”), under which the panels recognize that under certain circumstances the language of proceedings may be different from the language of the registration agreement for the disputed domain name. Such circumstances include, *inter alia*: (i) evidence showing that the respondent can understand the language of the complaint, (ii) the language/script of the domain name particularly where the same as that of the complainant’s mark, (iii) potential unfairness or unwarranted delay in ordering the complainant to translate the complaint, (iv) evidence of other respondent-controlled domain names registered, used, or corresponding to a particular language, or (v) other indicia tending to show that it would not be unfair to proceed in a language other than that of the registration agreement (e.g., *Sphinx Information Technology Consulting and Software Project GmbH v. Sphinx IT SRL*, WIPO Case No. [DEUL2018-0001](#); also see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.5).

In this case, the language of the Registration Agreement is Italian. The registrar is an Italian company. Respondent is a person with an Italian name, an Italian phone number and an address in Italy. The Complainant requests that English be the language of the proceeding.

The Panel notes the use of the English word “investments” in the Domain Name and the fact that the Respondent did not object to the change of language request of the Complainant.

Therefore, the Panel is satisfied that the Respondent has knowledge of the English language so that proceeding in English is fair and equal for the Complainant and the Respondent. This is supported by the fact that the Respondent did not object the request to change the language.

In addition, the Panel accepts that requesting a translation of the Complaint will cause undue delay of these proceedings and therefore be inequitable for both parties and contrary to the obligation to proceed with these ADR Proceedings with due expedition.

Therefore, having regard to the above circumstances, the Panel accepts in its sole discretion that the language of the ADR Proceeding will be English and therefore different than the language of the registration agreement for the Domain Name.

7. Decision

For the foregoing reasons, in accordance with Paragraph A(3)(b)(6) of the ADR Rules, the Panel orders that the language of the ADR proceeding shall be English and any future submission by the Parties (including the submission of a new Complaint) regarding the disputed domain name <natixinvestments.eu> shall be made in the language of the ADR Proceeding in accordance with paragraph A(3)(c) of the ADR Rules.

This Panel’s decision shall be final and not subject to appeal.

/Marina Perraki/

Marina Perraki

Sole Panelist

Date: May 17, 2023