



PolishAPI

Recommendation regarding the use of ASPSP logos as part of providing payment initiation services and access to account information

Document developed by the PolishAPI Project Group

Table of contents

1	Introduction and reservations	3
2	Use of third-party trademarks allowed under the trademark law	4
3	Technical requirements	6



1 Introduction and reservations

1. This recommendation aims to develop a common practice in the use of third-party trademarks as part of the provision of AIS and PIS services based on the so-called informative use of the trademark provided for in Article 14 Section 1c of EU Regulation 2017/1001 of 14 June 2017 on the European Union trademark and in Article 156 Section 1 Item 3 of the Act of 30 June 2000 Industrial Property Law.
2. We assume that the ASPSP logos are trademarks registered as Polish trademarks at the Polish Patent Office or as EU trademarks at the EU Intellectual Property Office (EUIPO).
3. This recommendation does not constitute a license or consent to the use of trademarks covered by exclusive rights of third parties. In particular, this recommendation does not transfer any trademark rights to persons other than their owners. Nor can it be understood as granting permission to use these marks to any person, or extending the right beyond the scope permitted under the provisions of the law on the informative use of a trademark.
4. The recommendations and descriptions of the assumptions contained in this document present the view developed as part of the work of the project group at the Polish Bank Association.

2 Use of third-party trademarks allowed under the trademark law

1. The use of the word-graphic trademarks (logos) of the ASPSP by the TPP may be based on the so-called informative use of the trademark, which is an exception limiting the protection of a registered trademark. This exception allows a third party to use a trademark, without the need to obtain a license, to indicate or refer to the goods or services as the goods or services of the owner of the trademark or when it is necessary to indicate the purpose of the goods (service). It is stipulated in EU regulations in relation to EU trademarks and in Polish regulations - in relation to national trademarks:
 - In accordance with Article 14 Section 1c) of the EU Regulation 2017/1001 of 14 June 2017 on the European Union trademark, the owner of an EU trademark shall not be entitled to prohibit a third party from using the EU trademark in the course of trade for the purpose of designating or referring to goods or services as goods or services of the owner of a given trademark, in particular where the use of that trademark is necessary to indicate the purpose of the goods or services, in particular as accessories or spare parts.
 - In accordance with Article 156 of the Act of 30 June 2000, the Industrial Property Law, the trademark protection law does not give the right holder the right to prohibit the use in trade by another person of a registered mark or a similar mark if it is necessary to indicate the purpose of the goods, especially when it comes to the offered spare parts, accessories or services. This provision should be interpreted in the light of Article 14 of EU Directive 2015/2436, harmonizing national provisions on trademarks, the content of which is analogous to Article 14 of EU Regulation 2017/1001.
 - In both of the above cases, the use of labels is only allowed if it is in accordance with honest practices in industry and commerce.
2. Payment initiation services (PIS) and access to account information services (AIS) enable the consumer to view the details of the account kept by the ASPSP and to order payments from such account via the TPP platform. In these circumstances, it is necessary to use the ASPSP trademark to allow the user to distinguish information about the ASPSP account from the information about other services offered on the TPP platform and to indicate the purpose of PIS or AIS to gain access to the account maintained by the ASPSP. Word and graphic signs (logos) are more readable for the user of the interface than word signs, so their use is justified to allow customers to determine the origin of the ASPSP bank account and eliminate the risk of mistakes (e.g. the risk of the customer ordering payment from an account maintained by another ASPSP). In the team's view, such use is consistent with honest practices in industry and commerce.
3. The use of signs for information purposes requires a number of additional conditions:
 - use in conjunction with the ASPSP service - the trademark should be used only in relation to those AIS and PIS that apply to the given ASPSP,
 - no misleading and undue benefits for TPP - the context and method of use cannot suggest the existence of links between TPP and ASPSP, ASPSP marks cannot be used to promote TPP services,
 - the form of the mark used - ASPSP may oppose the use of a modified version of the mark, e.g. in the event of a change in colour, shape, proportion or combination of the mark with

the TPP mark; it is therefore recommended to use the trademark in the same form that is used by the ASPSP and contained in the access interface documentation (XS2A).

3 Technical requirements

It is recommended that each ASPSP in the access interface documentation (XS2A) should include information on how to use its logo and provide the logo file or its variants (or link to relevant files), meeting at least the following conditions:

1. a logo in a lossless format (e.g. PNG) with transparency and a vector format (e.g. EPS or SVG) without protection areas;
2. the horizontal and vertical version;
3. application icon (used on smartphones) without rounding at the corners;
4. the colour version, grey and black and white.