

ADMINISTRATIVE PANEL DECISION

**AXA SA v. Whois Privacy Corp. / ksentertainment ksentertainment,
ksentertainment**

Case No. D2022-1292

1. The Parties

The Complainant is AXA SA, France, represented by Selarl Candé - Blanchard - Ducamp, France.

The Respondent is Whois Privacy Corp., Bahamas / ksentertainment ksentertainment, ksentertainment Cambodia.

2. The Domain Name and Registrar

The disputed domain name <axavips.com> is registered with Internet Domain Service BS Corp (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 11, 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 amendment to the Complaint on April 12, 2022.

The Center verified that the Complaint together with the amendment to the 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 13, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 3, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 4, 2022.

The Center appointed Mario Soerensen Garcia as the sole panelist in this matter on May 12, 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.

4. Factual Background

The Complainant is AXA S.A., the holding company of AXA Group, a world leader in insurance, saving and asset management, serving 105 million customers, employing 153,000 people, and present in 54 countries.

The Complainant is the owner of several trademark registrations for the trademark AXA around the world, including the following:

- International Trademark Registration No. 490030, registered on December 5, 1984;
- European Union Trademark Registration No. 008772766, registered on September 7, 2012; and
- French Trademark Registration No. 1270658, registered on January 10, 1984.

The Complainant also owns the following domain names: <axa.com>, registered on October 23, 1995; <axa.fr>, registered on May 19, 1996; <axa.net>, registered on November 2, 1997; and <axa.info>, registered on July 30, 2001.

The disputed domain name was registered on July 17, 2021, and resolves to an inactive page.

5. Parties' Contentions

A. Complainant

The Complainant says that the disputed domain name totally reproduces its trademark AXA, which has no particular meaning, is highly distinctive and worldwide well known in the insurance and financial segments.

The addition of the generic term "vips", according to the Complainant, is not sufficient to overcome a finding of confusing similarity with its trademark AXA and may be understood by the Internet users that the disputed domain name refers to another official website of the Complainant, which would permit the customers to access the services in a privileged manner.

The Complainant alleges that it has not licensed or permitted the Respondent to use its trademark or to register the disputed domain name and that it lacks any rights or legitimate interests in respect to the disputed domain name. Also, the Complainant informs that the Respondent is not commonly known by the disputed domain name or even associated with the name AXA.

According to the Complainant, the fact that the disputed domain name is passively held and leads to a page which is not active, confirms its lack of legitimate interests.

The Complainant mentions that it is impossible that the Respondent was not aware of its famous and reputed trademark at the time of the registration of the disputed domain name, and that reproducing such a well-known mark in a domain name to attract Internet users to an inactive website, cannot be considered as fair use or use in good faith.

Finally, the Complainant informs that the Respondent chose and registered the disputed domain name to take predatory advantage of the Complainant's reputation.

The Complainant then requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

As per paragraph 4(a) of the Policy, the Complainant must prove that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The evidence presented demonstrates that the Complainant is the owner of the trademark AXA in several countries and in different classes of services and products. The Panel finds that the Complainant has trademark rights for purposes of the Policy.

The Complainant's trademark predates the disputed domain name.

The disputed domain name incorporates the Complainant's trademark in its entirety. The addition of the term "vips" does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark, since the Complainant's trademark is recognizable within the disputed domain name.

As numerous prior UDRP panels have recognized, the incorporation of a trademark in its entirety is sufficient to establish that a domain name is identical or confusingly similar to a complainant's mark. See section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)).

It is the general view among UDRP panels that the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) to a trademark in a domain name would not avoid a finding of confusing similarity under the first element of the UDRP. See section 1.8 of the [WIPO Overview 3.0](#).

The Panel finds that paragraph 4(a)(i) of the Policy has been proved by the Complainant, *i.e.*, the disputed domain name is confusingly similar to the Complainant's trademark.

B. Rights or Legitimate Interests

The Respondent has not submitted a response to the Complaint.

There is no evidence that the Respondent has any authorization to use the Complainant's trademark or to register domain names similar to the Complainant's trademark.

There is no evidence that the Respondent is commonly known by the disputed domain name.

There is no evidence that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name or that before any notice of the dispute the Respondent has made use of, or demonstrable preparations to use the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services.

The Panel finds that the use of the disputed domain name, which incorporates the Complainant's trademark, does not correspond to a *bona fide* use of the disputed domain name under the Policy. Moreover, the construction of the disputed domain name itself is such to carry a risk of implied affiliation with the Complainant, which cannot constitute fair use. See section 2.5.1 of the [WIPO Overview 3.0](#).

For the above reasons, the Panel finds that the condition of paragraph 4(a)(ii) of the Policy has been satisfied, *i.e.*, the Respondent has no rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

The trademark AXA is registered by the Complainant in several countries and has been used since a long time. It is indeed distinctive and well known in the Complainant's insurance segment. Therefore, it seems unlikely that the Respondent would not have been aware of the Complainant at the time of the registration of the disputed domain name.

The disputed domain name is comprised of the Complainant's trademark with the inclusion of the term "vips" and the Respondent has no rights or legitimate interests in the disputed domain name. This Panel finds that the inclusion of this term was certainly not by coincidence and may create more confusion for customers, since it actually gives the false impression that the disputed domain name belongs to or is somehow affiliated with the Complainant.

A domain name that entirely reproduces the mark AXA is already suggestive of the Respondent's bad faith. It does not seem to make any sense for the Respondent to register the disputed domain name, except to mislead consumers. This Panel concludes that the Respondent has intentionally attempted to cause confusion with the Complainant's trademark by misleading Internet users to believe that the disputed domain names belong to or is somehow associated with the Complainant.

Moreover, the Respondent has chosen not to respond to the Complainant's allegations. In these circumstances, and as found in the UDRP panel's decision in *The Argento Wine Company Limited v. Argento Beijing Trading Company*, WIPO Case No. [D2009-0610](#), "the failure of the Respondent to respond to the Complaint further supports an inference of bad faith".

This Panel finds that the Respondent's intention of taking undue advantage of the Complainant's trademark has been demonstrated.

For the above reasons, the Panel finds that the condition of paragraph 4(a)(iii) of the Policy has been satisfied, *i.e.*, the disputed domain name has been registered and is being used in bad faith.

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, <axavips.com> be transferred to the Complainant.

/Mario Soerensen Garcia/

Mario Soerensen Garcia

Sole Panelist

Date: May 24, 2022