

ADMINISTRATIVE PANEL DECISION

AXA SA v. logbo Youode, chez laurent
Case No. D2022-1467

1. The Parties

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

Respondent is logbo Youode, chez laurent, Côte d'Ivoire.

2. The Domain Name and Registrar

The disputed domain name <monnaxa.online> is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 25, 2022. On April 25, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 25, 2022, the Registrar transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 Respondent of the Complaint, and the proceedings commenced on April 29, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 19, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on May 20, 2022.

The Center appointed Brian J. Winterfeldt as the sole panelist in this matter on May 27, 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

Complainant is the holding company of AXA Group, an insurance company that has been operating under the AXA trade name since 1985. Complainant serves millions of customers, is present in dozens of countries globally, including in Europe, Africa, North America, and the Asia-Pacific region, and employs hundreds of thousands of individuals. Complainant's AXA brand was ranked 48th in Interbrand's 2021 ranking of the best global brands.

Complainant owns numerous valid and subsisting registrations for the AXA trademark (the "AXA Mark") covering insurance and financial services, including French Registration Number 1270658 (registered on January 10, 1984), International Registration Number 1519781 (registered May 29, 2019), and European Union Registration Number 008772766 (registered September 7, 2012).

Complainant owns and operates its primary website offering insurance and financial services at the domain name <axa.com>. Complainant also owns several other domain names incorporating its AXA Mark, including <axa.fr>, <axa.net>, and <axa.info>.

The disputed domain name, <monnaxa.online>, was registered on May 1, 2021. The disputed domain name resolves to an error page indicating the website cannot be reached.

5. Parties' Contentions

A. Complainant

Complainant argues the disputed domain name is confusingly similar to and incorporates the entirety of Complainant's AXA Mark, a famous trademark, and asserts Internet users may accordingly believe the disputed domain name leads to an official website of Complainant or its subsidiaries.

Complainant asserts that Respondent has no rights or legitimate interests in the disputed domain name. According to Complainant, Complainant never licensed or otherwise permitted Respondent to use Complainant's trademarks or register any domain name incorporating them, and Respondent is not making a fair use or legitimate non-commercial use of the disputed domain name because it is passively held and does not lead to an accessible website.

Complainant asserts that Respondent registered and used the disputed domain name in bad faith. According to Complainant, Respondent was aware of Complainant's AXA Mark when Respondent registered the disputed domain name because the AXA Mark has become internationally famous and the disputed domain name incorporates the AXA Mark in its entirety. Complainant alleges Respondent used the disputed domain name in bad faith by passively holding it, as the disputed domain name leads to an inactive webpage. Complainant also alleges Respondent's choice to register the disputed domain name via a privacy proxy registration service was in bad faith.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Under paragraphs 5(f) and 14(a) of the Rules, if a respondent defaults, and exceptional circumstances do not apply, the panel shall proceed to a decision on the basis of the complaint.

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

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

A respondent's default does not by itself satisfy a complainant's burden of proof and is not necessarily an admission that the complainant's allegations are true. See section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). Thus, even though Respondent has defaulted, the burden remains with Complainant to establish the three elements of paragraph 4(a) of the Policy by a preponderance of the evidence. See, e.g., *Vente-Privee.Com v. Tang Tang Shang, Tang Shan*, WIPO Case No. [D2021-1350](#).

A. Identical or Confusingly Similar

A national or international trademark registration is *prima facie* evidence that the holder has the requisite rights in the registered mark for purposes of paragraph 4(a)(i) of the Policy. [WIPO Overview 3.0](#), section 1.2.1. Complainant has provided evidence that it has rights in the AXA Mark through its trademark registrations referenced *supra*.

The remaining question under the first element of the Policy is whether the disputed domain name is identical or confusingly similar to Complainant's AXA Mark (typically disregarding the Top-Level Domain ("TLD") in which the domain name is registered). It is well accepted that the first element functions primarily as a standing requirement and that the threshold test for confusing similarity involves a "reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name". [WIPO Overview 3.0](#), section 1.7. This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name. *Id.*

Here, the disputed domain name fully incorporates the AXA Mark. The addition of the term "monn" before "AXA" and the use of the TLD ".online" after "AXA" do not prevent a finding of confusing similarity between the disputed domain name and Complainant's AXA Mark. See, e.g., *Carrefour v. Zhuhai Yingxun Keji Limited*, WIPO Case No. [D2019-0592](#) (finding the added term "mon" did not detract from a finding of confusing similarity); *Credit Agricole S.A. v. Yang Xiao Yuan*, WIPO Case No. [D2018-1476](#) (finding the TLD ".online" did not detract from a finding of confusing similarity).

The Panel finds that Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy in establishing its trademark rights and showing that the disputed domain name is confusingly similar to Complainant's AXA Mark.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, Complainant must make at least a *prima facie* showing that Respondent possesses no rights or legitimate interests in a disputed domain name. See, e.g., *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#). Once a complainant makes such a *prima facie* showing, the burden of production shifts to the respondent, though the burden of proof always remains on the complainant. If the respondent fails to come forward with evidence showing rights or legitimate interests, the complainant will have sustained their burden under the second element of the UDRP. See [WIPO Overview 3.0](#), section 2.1.

Complainant has alleged that Respondent has no rights or legitimate interests in the disputed domain name. Respondent has not submitted any arguments or evidence to rebut Complainant's contention that it has never authorized, licensed or permitted Respondent to use the AXA Mark in any way. Respondent is also not using the disputed domain name in connection with any *bona fide* offering of goods or services, nor is Respondent making a legitimate noncommercial or fair use of the disputed domain name, because it does not resolve to an active website and is instead being passively held. See, e.g., *Confédération Nationale du Crédit Mutuel v. Whois Privacy Protection Foundation / Diego Lopeaz*, WIPO Case No. [D2021-0300](#). Furthermore, there is no evidence on record suggesting that Respondent is commonly known by the disputed domain name.

Complainant has provided evidence supporting its *prima facie* claim that Respondent lacks any rights or legitimate interests in the disputed domain name. Respondent, having defaulted, failed to refute Complainant's allegations.

Therefore, the Panel concludes that Respondent does not have rights or legitimate interests in the disputed domain name within the meaning of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides a non-exhaustive list of circumstances indicating bad faith registration and use on the part of a domain name registrant, namely:

"(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out of pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location."

Respondent's actions align with 4(b)(iv) of the Policy. Complainant registered and made widespread use of the AXA Mark prior to Respondent's registration of the disputed domain name. Respondent is based in Côte d'Ivoire, a francophone country, and Complainant is a well-known French company that does business in Côte d'Ivoire. Complainant also has a website at the <axa.ci> domain name serving Complainant's customers in Côte d'Ivoire. Therefore, Respondent was likely aware of Complainant and its rights in the AXA Mark when Respondent registered the disputed domain name.

Respondent is currently holding the disputed domain name passively. Panelists have found that the non-use of a domain name, including use under which the domain name does not resolve to an active website, would not prevent a finding of bad faith. See [WIPO Overview 3.0](#), section 3.3. Respondent also utilized a privacy service, and Complainant alleges Respondent's use of the same was in bad faith. Use of a privacy service to delay disclosure of a registrant's identity or merely to avoid being notified of a UDRP proceeding may lead to an inference of bad faith. See [WIPO Overview 3.0](#), section 3.6. Respondent has not responded to Complainant's allegations regarding bad faith registration and use.

The Panel considers it likely that Respondent selected the disputed domain name with the intention of taking advantage of Complainant's reputation and ultimately misleading Internet users for Respondent's commercial gain. This conclusion is strengthened by the composition of the disputed domain name, which is comprised of "monn", which corresponds to a version of the French word "mon" meaning "my", "AXA" (Complainant's Mark), and the Internet-related ".online." In this regard, the Panel undertook limited factual research¹ and it appears Complainant previously offered a "Mon AXA" (i.e., "My AXA") app from 2014 through 2018. Respondent was thus likely referencing the "Mon AXA" app via its registration of the disputed domain name. These circumstances support an inference of bad faith registration. See [WIPO Overview 3.0](#), section 3.2.1.

This Panel therefore finds that Respondent registered and used the disputed domain name in bad faith to intentionally create a likelihood of confusion as to the source, sponsorship, affiliation or endorsement of the disputed domain name with the purpose of attracting Internet users for commercial gain per paragraph 4(b)(iv) of the Policy.

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 <monnaxa.online> be transferred to Complainant.

/Brian J. Winterfeldt/
Brian J. Winterfeldt
Sole Panelist
Date: June 10, 2022

¹ See [WIPO Overview 3.0](#), Section 4.8 ("...a panel may undertake limited factual research into matters of public record if it would consider such information useful to assessing the case merits and reaching a decision.").