

ADMINISTRATIVE PANEL DECISION

AXA SA v. Don Martinez Gomez

Case No. D2024-1058

1. The Parties

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

The Respondent is Don Martinez Gomez, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <axaseg-esp.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 11, 2024. On March 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 11, 2024, 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 (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 12, 2024, 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 March 12, 2024.

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 March 14, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 3, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 9, 2024.

The Center appointed Christian Schalk as the sole panelist in this matter on April 29, 2024. 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 one of the world biggest companies in the field of insurance, saving and asset management. It employs more than 110,000 people world wide and serves 93 million customers. The Complainant has a commercial presence in 51 countries of different regions of the world, especially, in Europe, Africa, North America and Asia-Pacific.

According to the material brought before the Panel, the Complainant's trademark AXA was considered as leading global insurance brand for nine consecutive years. In 2023, this trademark has been ranked among the 100 best global brands according to the well known ranking of the brand agency Interbrand.

In *AXA SA v. Frank Van*, WIPO Case No. [D2014-0863](#), the Panel recognized the Complainant's mark as a well known trademark in the field of insurance and financial services.

The Complainant owns among others the following trademarks:

- International Trademark Registration No. 490 030, "AXA", registered on December 5, 1984, covering services in classes 35, 36, and 39, designating among others Algeria, Austria, Croatia, Egypt, Spain, Italy, Portugal and Switzerland.
- European Union Trademark No. 373 894, "AXA (and design)", registered on July 29, 1998, covering services in International Classes 35 and 36;
- European Union Trademark No. 008 772 766, "AXA", registered on September 7, 2012, covering services in International Classes 35 and 36.

The Complainant also owns the following domain names:

- <axa.com>, registered on October 23, 1995;
- <axa.fr>, registered on May 20, 1996;
- <axa.net>, registered on November 1, 1997;
- <axa.info>, registered on July 30, 2001.

The Respondent registered the disputed domain name on June 28, 2023.

The Complainant has sent letters to the Respondent on July 18, 2023, July 26, 2023 and on August 4, 2023 where the latter was made aware of the Complainant's rights in the trademark AXA and where the Respondent was asked to immediately discontinue any and all use of the disputed domain name and immediately and permanently refrain from any use of the term AXA or any variation thereof that is likely to cause confusion or dilution.

According to a screenshot of the website to which the disputed domain name resolved on February 6, 2024, this website featured in French language apparently sponsored links which pretend to provide access to services in the field of insurance in general ("Assurance Rc Pro en Ligne", "Assurances") and to car insurances ("Assurance Auto en Ligne Pas Cher").

A screenshot of March 11, 2024 shows that the disputed domain name resolved to an empty page where it is indicated in French language that it is impossible to establish a connection with the URL which features the disputed domain name.

5. Parties ' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

The Complainant alleges that the disputed domain name reproduces identically the Complainant's trademark AXA. In this context he refers to *Finaxa S.A. v. Spiral Matrix*, WIPO Case No. [D2005-1044](#), where the Panel found that that the term AXA has no particular meaning and is therefore highly distinctive.

With regard to the word element "seg" in the disputed domain name, the Complainant explains that it stands for "seguro" which is the Spanish term for "insurance" and therefore, this diminutive does not diminish the confusing similarity between the disputed domain name and the Complainant's trademark AXA. The Complainant refers in this context to *AXA SA v. Privacy Service Provided by Withheld for Privacy ehf / John Sicot*, WIPO Case No. [D2022-0963](#), in order to support this argument.

The Complainant continues to argue that also the adjunction of the geographical diminutive "esp" for "Espana" (in English: Spain) does not diminish the confusing similarity between the disputed domain name and the Complainant's trademark AXA. In this context, the Complainant cites *AXA SA v. YAnina, Dostavka Produktov*, WIPO Case No. [D2017-0237](#) and *AXA SA v. Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2023-0625](#).

The Complainant alleges also that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant argues that the registrant, Withheld for Privacy, does not have legitimate interest in using the disputed domain name since this entity is not its real owner but a company providing privacy registration services and thus, the domain name ownership details are kept private.

The Complainant states also that he never licensed or otherwise permitted the Respondent to use its trademark or to feature it in the disputed domain name, as evidenced by three unanswered formal notices which have been brought before the Panel. The Respondent has clearly adopted the Complainant's trademark for its own use and incorporated it into the the disputed domain name without the Complainant's authorization. The Complainant believes also that the Respondent has not been commonly known by the disputed domain name or even been associated with the Complainant's company name AXA.

The Complainant states in addition, that the disputed domain name is not in use in connection with a bona fide offering of goods and services since the Respondent used it for a parking page where only sponsored links are hosted which presents services in competition with the Complainant's one as insurance and car insurance. The Complainant refers in this context to *Zions Bancorporation v. Domain Administrator, Fundacion Private Whois*, WIPO Case No. [D2014-0465](#).

The Complainant argues further that another indication of lack of rights and legitimate interest in the disputed domain name is the subsequent passively hold of the disputed domain name and refers to *Euromarket Designs, Inc. v. Domain For sale VMI*, WIPO Case No. [D2000-1195](#), in order to support this argument.

The Complainant alleges finally, that the disputed domain name was registered and is used in bad faith. The Complainant is convinced that the Respondent was aware of the Complainant at the time of registration of the disputed domain name and registered it in bad faith in order to take predatory advantage of the Complainant's reputation and cites *AXA SA v. Frank Van*, WIPO Case No. [D2014-0863](#), and *Accenture Global Services Limited v. WhoisGuard Protected, WhoisGuard, Inc. / Joshua Kimac*, WIPO Case No. [D2018-1641](#), to support this argument and continues that the Respondent has chosen and registered the disputed domain name on purpose.

The Complainant contends further that the Respondent is using the disputed domain name in bad faith when it was leading to a parking page hosting sponsored links and refers in this context to *Zions Bancorporation v. Domain Administrator, Fundacion Private Whois*, WIPO Case No. [D2014-0465](#).

The Complainant argues finally that, when applying the criteria developed in *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#), also the subsequent passive holding of the disputed domain name constitutes use in bad faith since the Complainant's trademark has a strong reputation, is widely known, the only purpose of the Respondent is to take undue advantage of the reputation of the Complainant's trademark which is also shown by the fact that the Respondent is not seriously interested in actively using the disputed domain name in good faith, that the Complainant did not receive any answer to the three letters of formal notice sent to the Respondent in order to stop the use of the disputed domain name and that the Respondent has used a privacy proxy for the registration of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.

The Panel finds that the Complainant has established trademark rights in the trademark AXA and that the entirety of the mark is reproduced within the disputed domain name.

The addition of terms to a trademark does not prevent a finding of confusing similarity where the trademark remains recognizable within the domain name (see [WIPO Overview 3.0](#), section 1.8). Therefore, the addition of the terms "seg" (which is an acronym for the word "seguro" which is the Spanish term for insurance) and "esp" (which is an acronym for word "Espana" which is the Spanish term for the country of Spain) in the disputed domain name cannot prevent a finding of confusing similarity.

Accordingly, the disputed domain name is at least confusingly similar to the mark for the purposes of the Policy (see [WIPO Overview 3.0](#), section 1.7).

Furthermore, the ".com" Top-Level Domain suffix in the disputed domain name does not affect the determination that the disputed domain name is identical to the AXA trademark in which the Complainant has rights (see also *Compagnie Générale des Etablissements Michelin v. Trendimg*, WIPO Case No. [D2010-0484](#); *Köstrizer Schwarzbierbrauerei v. Macros-Telekom Corp.*, WIPO Case No. [D2001-0936](#); and *Laboratoire Pharmafarm (SAS) v. M. Sivaramakrishan*, WIPO Case No. [D2001-0615](#) and cases cited therein).

For all these reasons, the Panel finds that the Complainant has fulfilled the first element under paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

Based on the submissions and materials filed in this case, the Panel finds that the Respondent does not have rights or legitimate interests in the disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, UDRP panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element (see [WIPO Overview 3.0](#), section 2.1).

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

However, the Respondent has not provided any evidence of circumstances specified in paragraph 4(c) of the Policy or of any other circumstances giving rise to rights to or legitimate interests in the disputed domain name. Specifically, the Panel finds no evidence that the Respondent has been or is commonly known by the disputed domain name. The Respondent is neither affiliated with the Complainant nor has a license to use its trademark. The Respondent has also not rebutted the Complainant’s allegations and has not provided the Panel with any explanations as to the Respondent’s rights or legitimate interests.

According to the printout of the website of February 6, 2024, forming part of the case file presented before the Panel, there are several links listed on the website to which the disputed domain name resolved. There is a strong likelihood that the Respondent gains some income by each click on these links by Internet users. Prior UDRP panels have generally recognized that the use of a domain name to post parking and landing pages or pay-per-click (“PPC”) links may be permissible in some circumstances, but would not of itself confer rights or legitimate interests arising from a “bona fide offering of goods or services”. An example of such permissible use is, where domain names consisting of dictionary or common words or phrases support posted PPC links genuinely related to the generic meaning of the domain name at issue (see, for instance, *Trade Me Limited v. Vertical Axis Inc.*, WIPO Case No. [D2009-0093](#); *Mobile Communication Service Inc. v. WebReg, RN*, WIPO Case No. [D2005-1304](#); and *Media General Communications, Inc. v. Rarenames, WebReg*, WIPO Case No. [D2006-0964](#)).

However, as it has been decided already by previous UDRP panels, that PPC parking pages which are built around a trademark cannot constitute a bona fide offering of goods or services pursuant to paragraph 4(c)(i) of the Policy, nor do they constitute a legitimate noncommercial or fair use pursuant to paragraph 4(c)(iii), see *Ustream.TV, Inc. v. Vertical Axis, Inc.*, WIPO Case No. [D2008-0598](#); *mVisible Technologies, Inc v. Navigation Catalyst Systems, Inc.*, WIPO Case No. [D2007-1141](#); *Mobile Communication Service Inc v. WebReg, RN*, WIPO Case No. [D2005-1304](#); *Gerber Products Co. v. LaPorte Holdings*, WIPO Case No. [D2005-1277](#); *Asian World of Martial Arts Inc. v. Texas International Property Associates*, WIPO Case No. [D2007-1415](#); *Champagne Lanson v. Development Services/MailPlanet.com*, WIPO Case No. [D2006-0006](#); and *The Knot, Inc. v. In Knot we Trust Ltd.*, WIPO Case No. [D2006-0340](#). This is the case here, where the disputed domain name incorporates the Complainant’s trademark and the PPC links capitalize on the reputation and goodwill associated therewith. These links pretend to lead Internet users to services which are also offered by the Complainant.

Furthermore, directing the disputed domain name to a blank page without any content just before filing of the Complaint with the Center does also not give the Respondent any rights or legitimate interests in the disputed domain name. Taking into consideration the overall circumstances of this case, especially, the Respondent's dishonest behaviour described in the previous paragraph and then subsequently directing the disputed domain name to a blank site cannot qualify as a bone fide offering of goods and services (see for instance, *Washington Mutual, Inc. v. Ashley Khong*, WIPO Case No. [D2005-0740](#) and *Dr. Martens International Trading GmbH and "Dr. Maertens" Marketing GmbH v. Godaddy.com, Inc.*, WIPO Case No. [D2017-0246](#)).

The Complainant has therefore fulfilled the second element under paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

The Complainant contends that the Respondent registered and is using the disputed domain name in bad faith. The Policy, paragraph 4(b) sets forth four non-exclusive circumstances, which evidence bad faith registration and use of domain names:

(i) circumstances indicating that the Respondent has registered or has acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name registration to the Complainant who is owner of the trademark or service mark or to a competitor of the Complainant, for valuable consideration in excess of the Respondent's documented out-of-pocket costs directly related to the domain name; or

(ii) the Respondent has registered the disputed 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 the Respondent has engaged in a pattern of such conduct; or

(iii) the Respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product or service on its website or location.

According to the materials brought before the Panel, the Panel finds that the disputed domain name has been registered and is being used by the Respondent in bad faith.

The Panel finds that the Respondent must have been aware of the Complainant's trademark and its services when it registered the disputed domain name. A simple search in a search engine such as Google or Bing reveals many references to the Complainant already on the first two pages of such a search and would have made the Respondent immediately aware of the Complainant. Moreover, the disputed domain name was initially directed to a website which featured in a prominent manner links apparently to services which are also offered by the Complainant. This could create the impression to Internet users that although this website is not the Complainant's official website, it could lead to the Complainant's services.

Moreover, considering that the added term "seg" is associated with the Complainant's services since it is an acronym of the Spanish term for insurance, "seguro", the composition of the disputed domain name further reinforces the Respondent's awareness of the Complainant and its intent to mislead Internet users through the confusingly similar disputed domain name.

Therefore, it is not possible to conceive of a plausible situation in which the Respondent would have been unaware of the Complainant's brands at the time of registration of the disputed domain name (see also *Telstra Corp. Ltd. v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

The Respondent's behaviour constituted bad faith use of the disputed domain name already before the filing of the Complaint.

The use, to which the disputed domain name was initially put, namely a PPC page featuring sponsored advertising links, is calculated to attract Internet users to the site in the mistaken belief that they are visiting a site of or associated with the Complainant. The object has to be commercial gain, namely PPC or referral revenue achieved through the visitors to the site clicking on the sponsored advertising links. Even if visitors arriving at the website to which the disputed domain name resolves become aware that the website is not such of the Complainant, the initial interest confusion has already mislead said users to the detriment to the Complainant and the operator of this website will nonetheless have achieved commercial gain in the form of a business opportunity, namely the possibility that a proportion of those visitors will click on the sponsored links (see also *Research In Motion Limited v. Privacy Locked LLC/Nat Collicot*, WIPO Case No. [D2009-0320](#)). The Respondent remains responsible for such use even if such advertising links served up to visitors on the website associated with the disputed domain name are automated (see also *Rolux Watch U.S.A., Inc. v. Vadim Krivitsky*, WIPO Case No. [D2008-0396](#)). It does also not matter in this context, whether the Respondent itself or a third party reaps the profits from such products or services (see *Villeroy & Boch AG v. Mario Pingerna*, WIPO Case No. [D2007-1912](#)) because the reason for such profits would be always the registration of the disputed domain name by the Respondent.

Therefore, the Panel is convinced that the Respondent's main purpose was to attract, for commercial gain, Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website.

Furthermore, having regard to the material brought before the Panel, the disputed domain name is currently not in use. According to section 3.3 of the [WIPO Overview 3.0](#) it is consensus view that also the lack of active use of the domain name does not as such prevent a finding of bad faith. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include, for instance, (i) the degree of distinctiveness or reputation of the complainant's mark and (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use (see also [WIPO Overview 3.0](#), section 3.3.).

The Complainant's trademark AXA enjoys distinctiveness and belongs to the group of the top 100 world famous brands. The disputed domain name incorporates this trademark in its entirety. The Complainant has a substantive commercial presence on the Internet as well as in social media.

The composition of the disputed domain name suggests that it resolves to a website where at least Spanish Internet users could have access to the Complainant's online services. The only conclusion which Internet users could draw from the composition of the disputed domain name is that it resolves directly to a website of the Complainant or provides at least access to the Complainant's services. Therefore, the Panel cannot conceive of any plausible actual or contemplated active use of the disputed domain name by the Respondent that would not be illegitimate.

Furthermore, the Respondent did not reply to the three letters sent by the Complainant's agent and also did not take part in the present proceedings.

Accordingly, in light of the circumstances, the Panel finds that the Respondent has engaged in the bad faith registration and use of the disputed domain name.

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 <axaseg-esp.com> be transferred to the Complainant.

/Christian Schalk/

Christian Schalk

Sole Panelist

Date: May 14, 2024