

## **ADMINISTRATIVE PANEL DECISION**

AXA SA v. Privacy Service Provided by Withheld for Privacy ehf /

Pizza Goeie

Case No. D2022-0901

### **1. The Parties**

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

The Respondent is Privacy Service Provided by Withheld for Privacy ehf, Iceland / Pizza Goeie, Netherlands.

### **2. The Domain Name and Registrar**

The disputed domain name <homebank-axa.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 15, 2022, in relation to the disputed domain name and the domain name <bureau-finance-axa.com>. On March 15, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name and <bureau-finance-axa.com>. On March 16, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name and for the domain name <bureau-finance-axa.com> which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on March 17, 2022, providing the registrants and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. On March 17, 2022, the Center also sent a request for amendment in relation to the remedy section. The Complainant filed an amendment to the Complaint on March 18, 2022, excluding <bureau-finance-axa.com> from the present proceeding.

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 24, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 13, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 14, 2022.

The Center appointed Angelica Lodigiani as the sole panelist in this matter on April 25, 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 AXA SA is the holding company of the AXA Group, which is a French company with a history dating back to the 18th century. With 105 million customers, 153,000 employees and a presence in 54 countries, the Complainant is a world leader in insurance, saving and asset management. The Complainant was listed in the Paris Stock Exchange in 1988, and in the New York Stock Exchange in 1996. In 2021 the Complainant's trademark was ranked 48th among the best global brands according to the Interbrand ranking.

The Complainant holds numerous trademark registrations for AXA in many jurisdictions worldwide, such as:

- International trademark, registration number 490030 for the mark AXA (word), registered on December 5, 1984, and covering services in classes 35, 36, 39;
- International trademark, registration number 1519781, for the mark AXA (with design), registered on May 29, 2019, and covering services in classes 35, 36, 37, 39, 44 and 45;
- European Union trademark, registration number 373894 for the mark AXA (with design), filed on August 28, 1996, and registered on July 29, 1998, and covering services in classes 35, 36;
- European Union trademark, registration number 8772766 for the mark AXA (word), filed on December 21, 2009, and registered on September 7, 2012, and covering services in classes 35 and 36;
- French Trademark, registration No. 1270658 for the mark AXA (word), registered on January 10, 1984, for services in classes 35 and 36.

The Complainant holds domain names incorporating the mark AXA, such as <axa.com>, <axa.net>, <axa.info> and <axa.fr>.

The disputed domain name was registered on August 15, 2021, and leads to a page with a "deceptive site ahead" warning.

#### **5. Parties' Contentions**

##### **A. Complainant**

According to the Complainant, the disputed domain name is confusingly similar to its AXA trademark as it reproduces it entirely, with the addition of the words "home bank", which refer to the Complainant's activities.

The Complainant maintains that the Respondent lacks rights or legitimate interests in the disputed domain name because the Complainant has no relationship with the Respondent, never licensed its AXA trademark to the Respondent, nor otherwise permitted the Respondent to use or to register any domain name containing this trademark. Moreover, the Respondent is not making a fair use of the disputed domain name without intent for commercial gain and is misleadingly diverting consumers. Indeed, the disputed domain name is not accessible for security reasons as it carries on a risk of phishing or other illegitimate activities.

Lastly, the Complainant contends that the disputed domain name has been registered and used in bad faith as the Complainant's trademark enjoys wide reputation and the Respondent was clearly aware of the Complainant's trademark at the time of the registration of the disputed domain name. The Respondent registered the disputed domain name to take predatory advantage from the Complainant's reputation. Furthermore, the disputed domain name is not accessible for security reasons and the Respondent concealed its identity behind a privacy proxy registration service.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **A. Identical or Confusingly Similar**

The Panel finds that the Complainant holds rights in the earlier registered trademark AXA.

The disputed domain name incorporates the AXA trademark entirely with the addition of the words "homebank". These additional terms do not prevent a finding of confusing similarity as the trademark AXA is clearly recognizable within the disputed domain name (see section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

In light of the above, the Panel is satisfied that the first condition under the Policy is met.

### **B. Rights or Legitimate Interests**

While the overall burden of proof rests with the complainant, UDRP panels have recognized that this could result in the often impossible task of proving a negative, requiring information that is often primarily within the knowledge of the respondent. As such, where a complainant makes a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

In the case at issue, the Panel finds that the Respondent is not authorized to reflect the Complainant's trademark in the disputed domain name, and that the Respondent does not appear to have been commonly known by the name "homebank-axa".

The disputed domain name leads to a page with a "deceptive site ahead" warning, that is a page containing a security message from the search engine advising visitors that the website they are attempting to reach is compromised as it may host phishing pages or have malware or other virus infection. In these conditions, it is obvious that the Respondent is not using the disputed domain name in connection with a *bona fide* offering of goods or services, or in connection with a legitimate noncommercial or fair use, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

In light of all these circumstances and in the absence of any reply from the Respondent, the Panel is satisfied that the Complainant has at least made a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name.

Accordingly, the Panel finds that also the second requirement under the Policy is met.

### **C. Registered and Used in Bad Faith**

The Complainant has held trademark rights in AXA since at least 1984. The Complainant has shown that this trademark is widely and extensively used, and that the Complainant and its activities under the AXA trademark have achieved high recognition. Therefore, the Panel accepts that the AXA trademark is well

known in its field. The reputation of the AXA trademark has also been recognized in other UDRP decisions (see, among others, *AXA SA v. Gbenagnon Agossou*, WIPO Case No. [D2022-0664](#); *AXA SA v. Privacy Administrator, Anonymize, Inc., Gary Cookie, Lui King, Whois Privacy, Private by Design, LLC / Danny Smith, Host Master, 1337 Services LLC, Von D Johnson, WhoisSecure / Gary Cooper*, WIPO Case No. [D2021-0168](#); *AXA SA v. Jean Ponto*, WIPO Case No. [D2021-0704](#)).

The disputed domain name consists of the Complainant's trademark preceded by the words "homebank" closely related to the Complainant's activity. Through the registration of the disputed domain name, the Respondent is therefore impersonating the Complainant by creating an association with the Complainant in the consumers' eyes. It is therefore clear that the Respondent registered the disputed domain name targeting the Complainant's activity and its well-known trademark AXA and therefore in bad faith.

As far as use in bad faith is concerned, when the Panel tried to access the website associated with the disputed domain name, the following warning message was triggered: "Deceptive site ahead - Attackers on www.homebank-axa.com may trick you into doing something dangerous like installing software or revealing your personal information (for example, passwords, phone numbers or credit cards)." A similar warning message was included as evidence in the Complaint. This type of malevolent use of the disputed domain name can only be seen as use in bad faith.

Finally, the fact that the Respondent's data has been hidden behind a proxy service and that the Respondent has failed to file a Response reinforce the inference of bad faith registration and use of the disputed domain name.

In light of the above, the Panel finds that also the third and last condition under the Policy is met.

## **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, <homebank-axa.com> be transferred to the Complainant.

*/Angelica Lodigiani/*

**Angelica Lodigiani**

Sole Panelist

Date: May 9, 2022