

ADMINISTRATIVE PANEL DECISION

Axa SA v. Privacy service provided by Withheld for Privacy eh / Rez Reza
Case No. D2022-1062

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 eh, Iceland / Rez Reza, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <axa-capital.org> 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 28, 2022. On March 29, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names <axa-capital.org> and <monnaxa.online>. On March 29, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on April 11, 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 Complaint on April 13, 2022, regarding the disputed domain name <axa-capital.org> only, and requested withdrawal for the disputed domain name <monnaxa.online> from the present case. The Center sent a Notification of Requested Withdrawal, in connection to the disputed domain name <monnaxa.online> only, to the Parties on April 26, 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 May 6, 2022. In accordance with the Rules, paragraph 5,

the due date for Response was May 26, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 3, 2022.

The Center appointed Anna Carabelli as the sole panelist in this matter on June 8, 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 a French multinational insurance company and the holding company of the AXA Group resulting from a succession of mergers, acquisitions, and name changes involving some of the biggest insurance companies around the world. The trade name "AXA" was launched in 1985.

The AXA Group employs 153,000 people worldwide, serving 105 million customers in more than 54 countries around the world. Its three major lines of business involves property and casualty insurance, life insurance, and savings and asset management.

The Complainant is the holder of several trademarks for AXA, including the following (hereinafter collectively referred to as "the Complainant's trademark"):

- International trademark registration No. 490030, AXA, registered on December 5, 1984 in Classes 35, 36 and 39;
- International trademark registration No. 1519781, AXA (design), registered on May 29, 2019 in Classes 35, 36, 37, 39, 44 and 45;
- European Union Trade Mark No. 000373 894, AXA (design), registered on July 29, 1998 in Classes 35 and 36;
- European Union Trade Mark No. 008772766, AXA, registered on July 9, 2012 in Classes 35 and 36;
- French trademark No. 1270658, AXA, filed on January 10, 1984, in Classes 35, 36 and 42.

The Complainant also owns the following domain names reproducing the AXA trademark:

- <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 disputed domain name <axa-capital.org> was registered on September 24, 2021, through a privacy proxy service. According to the uncontested evidence submitted by the Complainant, the disputed domain name does not resolve to an active website and merely leads to a page that reads "Ce site est inaccessible" ("This site is inaccessible").

5. Parties' Contentions

A. Complainant

The Complainant asserts and contends that:

- The disputed domain name entirely incorporates the Complainant's well-known trademark with the addition of the generic term "capital" which undoubtedly refers to the Complainant's activities in the field of banking and financial service. Therefore, the disputed domain name is confusingly identical to the mark AXA in which the Complainant has rights.

- The Respondent has no rights or legitimate interests in the disputed domain name since: (i) the Complainant has not authorized or somehow given consent to the Respondent to register and use the disputed domain name, and (ii) the Respondent is not making a fair use of the disputed domain name because passive holding does not constitute "legitimate noncommercial use".

- The disputed domain name was registered and is being used in bad faith. In this connection, the Complainant contends that the Respondent was aware of the Complainant's well-known and distinctive trademark when it registered the disputed domain name and clearly chose it with the deliberate intent to take predatory advantage of the Complainant's reputation.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the Panel to decide the Complaint based on the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Under paragraph 4(a) of the Policy, the Complainant must prove each of the following:

- (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.

Paragraph 4(b) of the Policy sets out four illustrative circumstances, which for the purposes of paragraph 4(a)(iii) of the Policy, shall be evidence of registration and use of a domain name in bad faith.

Paragraph 4(c) of the Policy sets out three illustrative circumstances any one of which, if proved by the Respondent, shall be evidence of the Respondent's rights to or legitimate interests in the disputed domain name for the purpose of paragraph 4(a)(ii) of the Policy above.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has established rights over the trademark AXA based on the trademark registrations cited under section 4 above.

The disputed domain name entirely incorporates the Complainant's mark AXA and this is a sufficient element to establish confusing similarity, as held by previous UDRP panels (e.g., *Banca Mediolanum S.p.A. v. Domains By Proxy, LLC / Marzia Chiarello*, WIPO Case No. [D2020-1955](#); *Virgin Enterprises Limited v. Domains By Proxy LLC, Domainsbyproxy.com / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-1923](#); *Patagonia, Inc. v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2019-1409](#)).

As recorded in section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third

Edition (“[WIPO Overview 3.0](#)”), where the relevant trademark is recognizable within the disputed domain name, the addition of other terms does not prevent a finding of confusing similarity under the first element.

The Panel finds that the disputed domain name is confusingly similar to the Complainant’s trademark.

The addition of the Top-Level Domain (“TLD”) “.org” is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test. (See section 1.11 of the [WIPO Overview 3.0](#)).

In the light of all the above, the Complainant has established element 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant states that it has not authorized, licensed, or permitted the Respondent to use the Complainant’s trademark. The Complainant asserts that the Respondent cannot demonstrate any legitimate noncommercial or fair use of the disputed domain, as the disputed domain name is not resolving to an active website and merely leads to a page which is inaccessible.

The Panel finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. As stressed by many previous UDRP decisions, in such a case the burden of production shifts to the Respondent to rebut the evidence (see section 2.1 of the [WIPO Overview 3.0](#)).

By not submitting a response, the Respondent has failed to invoke any circumstance, which could have demonstrated any rights or legitimate interests in the disputed domain names under paragraph 4(c) of the Policy.

Therefore, the Panel finds that the Complainant has established paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

According to paragraph 4(a)(iii) of the Policy, the Complainant must establish that the disputed domain name has been registered and is being used in bad faith.

The disputed domain name incorporates the Complainant’s trademark AXA and was registered long after these trademarks became well known. Given the distinctiveness and well-established reputation of the Complainant’s trademark (also recognized by previous UDRP panels, amongst others in *AXA SA v. WhoisSecure / Emeka Nwonye* WIPO Case No. [D2022-0904](#); *AXA SA v. Richard Lim* WIPO Case No. [D2020-0749](#); *AXA S.A., AXA Investment Managers S.A. v. Domains by Proxy, Inc. / Adam Long* WIPO Case No. [D2009-0452](#)) it is not conceivable that the Respondent did not have in mind the Complainant’s trademarks when registering the disputed domain name. Such fact suggests that the disputed domain name was registered in bad faith (see section 3.2.2 of the [WIPO Overview 3.0](#)) with a deliberate intent to create an impression of an association with the Complainant. Moreover, the use of the term “capital” in the disputed domain name, which refers to a relevant business and service of the Complainant, reinforces the above conclusion.

Concerning the use of the domain name, the currently inactive status of the disputed domain name does not prevent a finding of bad faith under the doctrine of passive holding. As stressed by many previous UDRP decisions, “While 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: (i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent’s concealing its identity or use of false contact details, and (iv) the implausibility of any good faith use to which the domain name may be put.” (see section 3.3 of the [WIPO Overview 3.0](#); *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

Each of these considerations points to the Respondent's passive holding of the disputed domain name being in bad faith. Specifically; (i) the Complainant's AXA mark is distinctive and well-established, (ii) the Respondent has failed to submit a response to the Complaint or provide any evidence of good-faith use, (iii) the Respondent has taken steps to conceal its identity through use of a privacy proxy service, and (iv) there is no conceivable good faith use to which the disputed domain name could be put by the Respondent.

For all the above reasons, the Panel finds that the disputed domain name was registered and is being used in bad faith by the Respondent.

Therefore, the Complainant has established also paragraph 4(a)(iii) 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 <axa-capital.org> be transferred to the Complainant.

/Anna Carabelli/

Anna Carabelli

Sole Panelist

Date: June 22, 2022