

ADMINISTRATIVE PANEL DECISION

AXA SA v. Privacy service provided by Withheld for Privacy ehf /
Andre Low and Hellen Constantin
Case No. D2022-1215

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 / Andre Low, Germany and Hellen Constantin, Germany.

2. The Domain Names and Registrar

The disputed domain names <axa-banque-finance.com> and <axa-credit-group.com> are registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 6, 2022. On April 7, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On April 7, 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 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 26, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 16, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 3, 2022.

The Center appointed Ian Lowe as the sole panelist in this matter on June 14, 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.

The Complaint has been filed against multiple respondents. For the reasons set out below, the Panel finds that the two disputed domain names are under common control and that consolidation of the complaints in respect of both disputed domain names would be fair and equitable to all parties as well as providing procedural efficiency.

4. Factual Background

The Complainant is the holding company of the AXA Group which has traded under the AXA mark since 1985. It is a world leader in insurance, saving and asset management, employing 153,000 people worldwide and serving 105 million customers in 54 countries.

The Complainant is the proprietor of many registered trademarks comprising the AXA mark including International trademark number 490030 AXA registered on December 5, 1984 designating a number of territories including Germany, and European Union trademark number 008772766 registered on September 7, 2012.

The disputed domain name <axa-banque-finance.com> was registered on April 15, 2021, and the disputed domain name <axa-credit-group.com> was registered on May 5, 2021. Both disputed domain names resolve to inactive websites.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain names are confusingly similar to its AXA trademark (the "Mark"), that the Respondent has no rights or legitimate interests in respect of the disputed domain names, and that the Respondent registered and is using the disputed domain names in bad faith.

B. Respondent

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

6. Consolidation

As noted above, the Complaint is filed against multiple respondents. Although paragraph 4(f) of the Policy does envisage multiple disputes between a Complainant and a Respondent being consolidated, neither the Policy nor the Rules provide expressly for the filing of a single Complaint against multiple respondents. However, section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") sets out the basis on which panels have accepted that a single complaint may be filed against multiple respondents. It notes that "panels look at whether: (i) the domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all parties". Procedural efficiency has also been an important consideration.

In this case, both disputed domain names comprise the Mark. Both disputed domain names were registered with the same Registrar and the identity of the registrants of the domain names was originally concealed behind Withheld for Privacy ehf. Both registrants have given apparently false addresses in Berlin, Germany, including in one case the address of the Germany Copyright Office. No response has been filed by or on behalf of either named registrant. In the circumstances, the Panel is satisfied on the balance of probabilities that the disputed domain names are under common control and that the Complaint may be consolidated.

7. Discussion and Findings

For this Complaint to succeed in relation to the disputed domain names the Complainant must prove that:

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

A. Identical or Confusingly Similar

The Complainant has uncontested rights in its AXA trademark, both by virtue of its trademark registrations and as a result of AXA having become a distinctive identifier associated by consumers with the Complainant and its services through its widespread use of the mark over many years. Ignoring the generic Top-Level Domain ("gTLD") ".com", the disputed domain names comprise the entirety of the Complainant's AXA trademark together with the terms respectively "banque-finance" (banque being the French language term for bank) and "credit-group". In the view of the Panel, the addition of these terms does not prevent a finding of confusing similarity between the disputed domain names and the Complainant's mark.

Accordingly, the Panel finds that the disputed domain names are confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

The Complainant has made out a strong *prima facie* case that the Respondent could have no rights or legitimate interests in respect of the disputed domain names. The disputed domain names are not being used for active websites. The Respondent has no connection with the Complainant or the AXA Group. In the Panel's view, the registration of a domain name conjoining the Complainant's trademark and the additional terms could not conceivably be used by the Respondent for any legitimate purpose and there could be no possible justification for the Respondent having registered the disputed domain names.

The Panel considers that the disputed domain names could only have been registered to deceive Internet users into believing that they had been registered by or operated on behalf of the Complainant and for unlawful purposes, whether associated with phishing or other fraudulent activities.

The Respondent has chosen not to respond to the Complaint to explain its registration or use of the disputed domain names, or to take any other steps to counter the *prima facie* case established by the Complainant.

In the circumstances, the Panel finds that the Respondent does not have any rights or legitimate interests in respect of the disputed domain names.

C. Registered and Used in Bad Faith

In light of the nature of the disputed domain names, the Panel considers that there is little doubt that the Respondent had the Complainant and its rights in the AXA mark in mind when it registered the disputed domain names. As set out above, the only possible inference is that the Respondent registered the disputed domain names for commercial gain with a view to taking unfair advantage of the Complainant's rights in the Mark and to confuse Internet users into believing that the disputed domain names were being operated by or authorized by the Complainant.

To the extent that the Respondent's holding of the disputed domain names may be said to amount to non-use, the [WIPO Overview 3.0](#) points out at section 3.3 that panelists have consistently found that this does not prevent a finding of bad faith. Factors that panelists take into account, whilst looking at all the circumstances, 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 (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put".

The disputed domain names comprise the entirety of the Complainant's distinctive AXA mark; there has been no response to the Complaint; the Respondent has used false contact details; and noting the nature of the disputed domain names it is difficult to conceive of any good faith use to which the disputed domain names could be put.

Accordingly, the Panel finds that the disputed domain names have been registered and are being used in bad faith.

8. 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 names <axa-banque-finance.com> and <axa-credit-group.com> be transferred to the Complainant.

/Ian Lowe/
Ian Lowe
Sole Panelist
Date: June 28, 2022