

ADMINISTRATIVE PANEL DECISION

AXA SA v. Rie, AIBI
Case No. D2022-1287

1. The Parties

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

The Respondent is Rie, AIBI, Taiwan Province of China.

2. The Domain Name and Registrar

The disputed domain name <axaxtc.com> is registered with Alibaba.com Singapore E-Commerce Private Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 11, 2022. On April 11, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 12, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on April 14, 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 the same date.

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 28, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 18, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 20, 2022.

The Center appointed Tobias Malte Müller as the sole panelist in this matter on June 21, 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

It results from the Complainant's undisputed allegations that the Complainant is the holding company of Axa Group, an insurance company with roots going back to the 18th century. The Axa name was introduced in 1985. The Axa Group is active in 54 countries worldwide and employs 153,000 people worldwide, serving 105 million customers.

The Complainant is the owner of several trademark registrations consisting of or containing the term "Axa". In particular, the Complaint is based, amongst others, on International Trademark no. 490030 for AXA (word), registered on December 5, 1984, (with priority date of August 7, 1984) for services in classes 35, 36 and 39, designating, *inter alia*, Spain, Russian Federation, Benelux, Sudan, Egypt, and Switzerland.

The disputed domain name was registered on September 23, 2021. It results from the Complainant's documented allegations that no content is displayed on the website to which the disputed domain name resolves ("*Ce site est inaccessible*"; EN: "*This site is inaccessible*").

5. Parties' Contentions

A. Complainant

Firstly, the Complainant points out that the disputed domain name is confusingly similar to the registered mark AXA. It consists of the trademark AXA followed by the letters "xtc" which do not have a specific meaning. Therefore, the trademark AXA is sufficiently recognizable as the dominant element within the disputed domain name.

Secondly, the Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. In particular, the Complainant submits that the disputed domain name is passively held and has not been used in connection with a *bona fide* offering of goods and services. Moreover, the Respondent is not commonly known by the disputed domain name or even associated with the name Axa and there has been no relationship whatsoever between the parties. Also, the disputed domain name is not used in connection with a *bona fide* offering of goods or services.

Thirdly, the Complainant contends that the Respondent registered and uses the disputed domain name in bad faith. The Complainant is convinced that the Respondent was aware of the Complainant's AXA trademarks at the time that it acquired the disputed domain name, in particular taking into account that the trademark AXA is famous and enjoys a worldwide reputation. The Respondent's behavior demonstrates that the Respondent does not need the disputed domain name but that it chose and registered the disputed domain name in bad faith in order to take predatory advantage of the Complainant's reputation. Finally, the disputed domain name is also used in bad faith, since passive holding may – under certain circumstances – be considered as use in bad faith.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs this Panel to “decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

Paragraph 4(a) of the Policy requires the Complainant to prove each of the following three elements in order to obtain an order that the disputed domain name should be transferred or cancelled:

- (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.

The Panel is satisfied that the registrant of record for the disputed domain name is the Respondent and will therefore proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied.

A. Identical or Confusingly Similar

Pursuant to paragraph 4(a)(i) of the Policy, the Complainant must first of all establish rights in a trademark or service mark and secondly establish that the disputed domain name is identical or confusingly similar to said mark.

The Complainant is the registered owner of several trademarks, including International Trademark no. 490030 for AXA (word), registered on December 5, 1984 (with priority date of August 7, 1984).

The disputed domain name entirely incorporates the AXA trademark. As noted in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.7, in cases where a domain name incorporates the entirety of a trademark, or at least where a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for the purposes of UDRP standing. In particular, where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element (section 1.7 of [WIPO Overview 3.0](#)).

In the case at hand, the Panel finds that the trademark AXA is readily recognizable in the disputed domain name. Under these circumstances, the addition of the letters “xtc” does not prevent the finding of confusing similarity.

Hence, this Panel finds that the disputed domain name is identical or confusingly similar to the Complainant’s trademark AXA pursuant to the Policy, paragraph 4(a)(i).

B. Rights or Legitimate Interests

Pursuant to paragraph 4(a)(ii) of the Policy, the Complainant must secondly establish that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Paragraph 4(c) of the Policy contains a non-exhaustive list of circumstances which, if found by the Panel to be proved, shall demonstrate the Respondent’s rights or legitimate interests in the disputed domain name. In the Panel’s view, based on the unrebutted allegations stated above, the Complainant has made a *prima facie* case that none of these circumstances are found in the case at hand and, therefore, that the Respondent lacks rights or legitimate interests in the disputed domain name.

No content is displayed on the website to which the disputed domain name resolves. Such use can neither be considered a *bona fide* offering of goods or services nor a legitimate noncommercial or fair use of the disputed domain name in the sense of paragraph 4(c)(i) and (iii) of the Policy (see, e.g. *CCA and B, LLC v. Domain Administrator, Fundacion Privacy Services LTD*, WIPO Case No. [D2021-1531](#)). This Panel finds it most likely that the Respondent selected the disputed domain name with the intention to take unfair advantage of, abuse, or otherwise engage in behavior detrimental to the Complainant's registered trademark AXA by registering a domain name containing that trademark.

Finally, the Panel does not dispose of any elements that could lead the Panel to the conclusion that the Respondent is commonly known by the disputed domain name or that it has acquired trademark rights pursuant to paragraph 4(c)(ii) of the Policy.

It is acknowledged that once the Panel finds such *prima facie* case is made, the burden of production shifts to the Respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the disputed domain name. Since the Respondent in the case at hand failed to come forward with any allegations or evidence in this regard, this Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

The Complainant has therefore satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Pursuant to paragraph 4(a)(iii) of the Policy, the Complainant must thirdly establish that the disputed domain name has been registered and is being used in bad faith. The Policy indicates that certain circumstances specified in paragraph 4(b) of the Policy may, "in particular but without limitation", be evidence of the disputed domain name's registration and use in bad faith.

According to the Complainant's undisputed allegations, the Respondent does not actively use the disputed domain name. With comparative reference to the circumstances set out in paragraph 4(b) of the UDRP deemed to establish bad faith registration and use, prior UDRP panels have found that the apparent lack of active use (e.g., to resolve to a website) of the domain name without any active attempt to sell or to contact the trademark holder (passive holding), does not as such prevent a finding of bad faith under the doctrine of passive holding (see, e.g. *CCA and B, LLC v. Domain Administrator, Fundacion Privacy Services LTD*, WIPO Case No. [D2021-1531](#)). The Panel must therefore examine all the circumstances of the case to determine whether the Respondent is acting in bad faith. 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 (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 (see [WIPO Overview 3.0](#), section 3.3).

In the case at hand, the Panel considers the following circumstances surrounding the registration as suggesting that the Respondent was aware that it has no rights or legitimate interests in the disputed domain name, and that the disputed domain name has been registered and is being used in bad faith:

- (i) the distinctiveness and international reputation of the trademark AXA which has existed since 1984; and
- (ii) the Respondent's failure to respond to this Complaint.

In addition, due to these circumstances this Panel concludes that the Respondent knew or should have known the trademark AXA when it registered the disputed domain name, and that there is no plausible legitimate active use that the Respondent could make of the disputed domain name.

In the light of the above, and in the absence of any explanations by the Respondent, the Panel finds that the disputed domain name has been registered and is being used in bad faith. The Complainant has therefore satisfied the third element, 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, <axaxtc.com> be transferred to the Complainant.

/Tobias Malte Müller/

Tobias Malte Müller

Sole Panelist

Date: July 5, 2022