

ADMINISTRATIVE PANEL DECISION

AXA SA v. Nanci Nette, Name Management Group Case No. D2022-4885

1. The Parties

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

The Respondent is Nanci Nette, Name Management Group, United States of America.

2. The Domain Name and Registrar

The disputed domain name <axa-affin.com> (the “Domain Name”) is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 20, 2022. On December 20, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On December 21, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 December 29, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 18, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 20, 2023.

The Center appointed Jeremy Speres as the sole panelist in this matter on January 26, 2023. 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 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, operating in 54 countries. The Complainant's AXA mark has been recognised as being well-known by prior UDRP panels (see, for example, *Axa SA v. Privacy service provided by Withheld for Privacy eh / Rez Reza*, WIPO Case No. [D2022-1062](#)).

The Complainant owns many registered trade marks comprising the AXA mark in many jurisdictions, including International Trade Mark registration no. 490030 AXA in classes 35, 36 and 39, registered on December 5, 1984, designating numerous jurisdictions.

The Domain Name was registered on August 18, 2006 and the Complainant's evidence establishes that the Domain Name has in the past, after registration by the Respondent, resolved to a website featuring pay-per-click ("PPC") advertisements relating to the Complainant and its competitors.

5. Parties' Contentions

A. Complainant

The Complainant contends that the Domain Name is confusingly similar to its well-known AXA mark, that the Respondent has no rights or legitimate interests in the Domain Name, and the Domain Name was registered and used in bad faith given that it has been used for PPC advertisements which relate to and compete with the Complainant for the Respondent's commercial gain.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant's registered and well-known mark is wholly contained within the Domain Name. Where the trade mark is recognisable within the disputed domain name (as in this case), the addition of other terms does not prevent a finding of confusing similarity (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") at section 1.8). The Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant's un rebutted evidence establishes that its mark was registered and well-known for many years prior to registration of the Domain Name. The Domain Name is confusingly similar to the Complainant's mark and the Complainant has certified that the Domain Name is unauthorised by it.

Use of a domain name to host PPC links does not represent a *bona fide* offering where such links compete with or capitalise on the reputation and goodwill of the complainant's mark, as in this case ([WIPO Overview 3.0](#) at section 2.9). The Respondent has provided no explanation as to why it chose the Domain Name. There is no semantic value to the Domain Name or the Complainant's mark which the Respondent might, in good faith, have sought to adopt. In the circumstances, and given what is stated below in relation to bad faith, the likelihood is that the Respondent intended to take advantage of the Complainant's trade mark for its own commercial gain, which cannot confer rights or legitimate interests.

There is thus no evidence that any of the circumstances set out in paragraph 4(c) of the Policy pertain, nor any others which may confer rights or legitimate interests on the Respondent. The Complainant has satisfied paragraph 4(a)(ii) of the Policy by virtue of having made out an unrebutted *prima facie* case ([WIPO Overview 3.0](#) at section 2.1).

C. Registered and Used in Bad Faith

UDRP panels have consistently found that the registration of a domain name that is confusingly similar to a well-known trade mark can by itself create a presumption of bad faith ([WIPO Overview 3.0](#) at sections 3.1.4 and 3.2.1).

The Domain Name has been used to host PPC links which advertise services relating to and competitive with those of the Complainant, which is a clear indicator of targeting for commercial gain under paragraph 4(b)(iv) of the Policy. See *Dr. Martens International Trading GmbH, Dr. Maertens Marketing GmbH v. Private Whois Service*, WIPO Case No. [D2011-1753](#). Although the advertisements may be served programmatically by a third party, the Respondent cannot disclaim responsibility for them ([WIPO Overview 3.0](#) at section 3.5).

The Panel has independently established that the Respondent has been the unsuccessful respondent in at least 46 prior UDRP cases, including, relatively recently: *Majid Al Futtaim Properties LLC v. Nanci Nette*, WIPO Case No. [D2022-4104](#). The Respondent is a serial cybersquatter and this case would appear to be a continuation of that trend.

The Panel has independently established that the Domain Name is listed for sale on a prominent domain name marketplace with a minimum offer set at USD 2,500, which is likely, without evidence from the Respondent to the contrary, in excess of the Respondent's out-of-pocket expenses relating directly to the Domain Name. Thus, paragraph 4(b)(i) of the Policy is also applicable.

The Panel draws an adverse inference from the Respondent's failure to take part in the present proceeding where an explanation is certainly called for ([WIPO Overview 3.0](#) at section 4.3).

The Complainant has satisfied 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 Domain Name, <axa-affin.com>, be transferred to the Complainant.

/Jeremy Speres/

Jeremy Speres

Sole Panelist

Date: February 9, 2023