

ADMINISTRATIVE PANEL DECISION

AXA SA v. geun young jung

Case No. D2023-0803

1. The Parties

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

The Respondent is geun young jung, Republic of Korea.

2. The Domain Name and Registrar

The disputed domain name <axaxvip.com> is registered with Wild West Domains, LLC. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 22, 2023. On February 23, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 23, 2023, 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 (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 28, 2023 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 February 28, 2023.

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 1, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 21, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 22, 2023.

The Center appointed Mladen Vukmir as the sole panelist in this matter on March 30, 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 Panel has determined the following non-contested facts:

- (i) The Complainant is French company AXA SA, world leader in insurance, saving and asset management, serving 95 million customers. Its stock is listed on Paris Stock Exchange and New York Stock Exchange. The Complainant is the holding company of the AXA Group.
- (ii) The Respondent is geun young jung, Republic of Korea.
- (iii) The Complainant is present in 50 countries and does business in diversified geographical regions and markets across Europe, Africa, North America and Asia-Pacific.
- (iv) The Complainant is registrant of numerous domain names that contain AXA trademark, including <axa.com>, registered on October 23, 1995; <axa.fr> registered on May 20, 1996; <axa.net> registered on November 01, 1997; <axa.info> registered on July 30, 2001.
- (v) The Complainant AXA SA is the holder of numerous trademarks that consist of or contain word "axa" in many countries of the world, including in particular the following:

Trademark	Trademark Office/scope of protection	Reg. no. / Status	Date of registration	Class(es)
AXA (word)	International	490030 / registered	December 5, 1984	35, 36, 39
AXA (figurative)	International	1519781 / registered	May 29, 2019	35, 36, 37, 39, 44 and 45
AXA (figurative)	European Union Intellectual Property Office "EUIPO" / European Union ("EU")	000373894 / registered	August 28, 1996	35, 36
AXA (word)	EUIPO / EU	008772766 / registered	September 7, 2012	35, 36
AXA (word)	Institut national de la propriété industrielle / France	1270658 / registered	January 10, 1984	35, 36, 42

- (vi) The Complainant's AXA trademark was recognized in previous UDRP cases and accepted by previous UDRP panels as trademark which has no particular meaning, and is accordingly distinctive (see *Finaxa SA v. Spiral Matrix*, WIPO Case No. [D2005-1044](#)), and as well-known trademark (see *AXA SA v. Frank Van*, WIPO Case No. [D2014-0863](#));
- (vii) The disputed domain name was registered on October 17, 2022;
- (viii) The disputed domain name resolves to a gambling page.

5. Parties' Contentions

A. Complainant

The Complainant states the following:

- (i) It has a strong long-standing history, is famous in property and casualty insurance, life insurance and savings, and asset management. Its trade name AXA was introduced in 1985;
- (ii) It holds a number of earlier trademark registrations that consist of word "axa". For nine consecutive years and until 2017, the trademark AXA was considered as the leading global insurance brand. In 2022, the trademark AXA ranked 43rd among the 100 best global brands according to the Interbrand ranking, and the value of the brand is steadily increasing;
- (iii) Previous UDRP panels have recognized that the Complainant's AXA trademarks, consisting of word "axa", have no particular meaning and therefore are highly distinctive, and that the Complainant's AXA trademarks are well-known around the world in the field of insurance and financial services; the Complainant refers to earlier UDRP panel decisions in this regard;
- (iv) The disputed domain name is confusingly similar to the Complainant's AXA trademarks, while it contains the Complainant's AXA trademarks in its entirety, and the addition of letter "x" and generic term "vip" do not prevent finding a confusing similarity;
- (v) The Respondent has no rights or legitimate interests in the disputed domain name. The Complainant has never licensed, sold, transferred or otherwise permitted anyone to register the disputed domain name. The Complainant has sent three formal notices to the Respondent to stop using the disputed domain name. The Respondent has not been commonly known by the disputed domain name, is not making a fair use of the disputed domain name without intent for commercial gain, and is misleadingly diverting consumers;
- (vi) The Respondent is using the disputed domain name for a phishing website that leads to a gambling page;
- (vii) the Respondent was aware of the Complainant's AXA trademarks at the time that it acquired the disputed domain name and it purposely chose and registered the disputed domain name using the word "axa" that is the Complainant's trademark in its entirety. The Respondent chose and registered the disputed domain name in bad faith to take advantage of the Complainant's reputation.

B. Respondent

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

6. Discussion and Findings

The Panel now proceeds to consider this matter on the merits in light of the Complaint, the lack of the Response, the Policy, the Rules, the Supplemental Rules, and other applicable legal authority pursuant to paragraph 15(a) of the Rules.

Paragraph 4(a) of the Policy provides that the Complainant must prove, with respect to the disputed domain name, each of the following:

- (i) the disputed domain name is confusingly similar to a trademark in which the Complainant has rights; and
- (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.

A. Identical or Confusingly Similar

The Complainant has submitted sufficient evidence to show that it is the holder of a number of AXA trademarks registered before the competent authorities worldwide. These trademarks provide to the Complainant all the exclusive rights that are granted with such trademark registrations.

According to Section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), in cases where a domain name incorporates the entirety of a trademark, or where at least 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 purposes of UDRP standing.

After performing a side-by-side comparison of the disputed domain name and the Complainant's AXA trademarks, it is evident to this Panel that the disputed domain name incorporates the Complainant's AXA trademarks in its entirety. The difference between the disputed domain name and the Complainant's AXA trademarks is the addition of letter "x" and acronym "vip" in the disputed domain name.

As provided in section 1.8 of the [WIPO Overview 3.0](#), where the relevant trademark is recognizable within the disputed domain name, the addition of other terms would not prevent a finding of confusing similarity. In this particular case, the added letter "x" and acronym "vip" do not prevent a finding of confusing similarity between the disputed domain name and the Complainant's AXA trademarks. The same determination was made in the earlier UDRP case (*AXA SA vs. Whois Privacy/ksentertainment ksentertainment, ksentertainment* WIPO Case No. [D2022-1292](#), <axavips.com>), where the panel established that the domain name <axavips.com> incorporates the Complainant's trademark in its entirety and that the addition of term "vip" does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's AXA trademarks since the Complainant's trademark is recognizable within the disputed domain name.

Regarding the generic Top-Level Domain ("gTLD"), ".com" suffix in the disputed domain name, as a standard registration requirement, should be disregarded under the confusing similarity test (section 1.11 of [WIPO Overview 3.0](#)).

Therefore, the Panel finds that the disputed domain name is confusingly similar to the Complainant's AXA trademarks under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets out a number of circumstances which, without limitation, may be effective for the Respondent to demonstrate that it has the rights to, or legitimate interests in, the disputed domain name, for the purposes of paragraph 4(a)(ii) of the Policy. Those circumstances are:

- "(i) before any notice to [the respondent] of the dispute, [use by the respondent] of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or
- (ii) [where the respondent] (as an individual, business, or other organization) [has] been commonly known by the domain name, even if [the respondent has] acquired no trademark or service mark rights; or
- (iii) [where the respondent is] making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue."

As noted by the previous UDRP panels on the onus of proof under paragraph 4(a)(ii) of the Policy, and as summarized in section 2.1 of the [WIPO Overview 3.0](#): "[...] While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or

legitimate interests in a domain name may result in the often impossible task of ‘proving a negative’, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.”

In this Panel’s view, the Complainant has made a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, with the Respondent failing to provide any substantive response to the Complaint that would prove its rights or legitimate interests in the disputed domain name.

The Complainant has established that it is the holder of a number of AXA trademarks in various jurisdictions, it has proven extensive and long lasting use of its AXA trademarks and their well-known character. There is neither any relation, disclosed to the Panel, nor otherwise apparent from the records, between the Respondent and the Complainant, nor does it arise that the Complainant has ever licensed or otherwise permitted the Respondent to use its AXA trademarks or to apply for or use any domain name incorporating the same trademarks.

There is no evidence that the Respondent has been commonly known by the disputed domain name, nor there is evidence that the Respondent has been using the disputed domain name in connection with a *bona fide* offering of goods or services or making a legitimate noncommercial or fair use of the disputed domain name. Thus, the Panel concludes that the Respondent has no rights or legitimate interests in the disputed domain name, which includes the Complainant’s AXA trademarks.

Accordingly, the Panel finds that the requirements set forth in paragraph 4(a)(ii) of the Policy have been fulfilled by the Complainant’s making the *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, and by the Respondent’s failing to produce any arguments or evidence to the contrary.

C. Registered and Used in Bad Faith

For the purpose of paragraph 4(a)(iii) of the Policy, the following circumstances, in particular, but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of the disputed domain name in bad faith:

- (i) circumstances indicating that the holder has registered or has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the holder’s documented out-of-pocket costs directly related to the domain name; or
- (ii) the holder has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the holder has engaged in a pattern of such conduct; or
- (iii) the holder has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, the holder has intentionally attempted to attract, for commercial gain, Internet users to the holder’s website or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the holder’s website or location or of a product or service on the holder’s website or location.

The Panel accepts the Complainant’s arguments that the Respondent has registered and used the disputed domain name in bad faith.

This Panel agrees with the determination of the panels in earlier UDRP cases (*AXA SA v. Frank Van*, WIPO Case No. [D2014-0863](#) <axacorporatetrust.com>) that the Complainant's trademark is well-known around the world in the field of insurance and financial services, that has it no particular meaning, and is accordingly distinctive (see *Finaxa SA v. Spiral Matrix*, WIPO Case No. [D2005-1044](#)). In this Panel's view, it is unlikely that the Respondent was unaware of the Complainant and its well-known AXA trademarks when it registered the disputed domain name. It is more likely than not that the Respondent's motive in relation to the registration and use of the disputed domain name was to take advantage from the Complainant's well-known trademark rights. Previous UDRP panels have found that the incorporation of a well-known trademark in a domain name having no plausible explanation for doing so is in itself an indication of bad faith (see *Intel Corporation v. The Pentium Group*, WIPO Case No. [D2009-0273](#)).

According to section 3.4. of [WIPO Overview 3.0.](#), the use of a domain name for purposes other than to host a website may constitute bad faith. Such purposes include phishing, identity theft, etc. The Complainant submitted evidence proving that the Respondent is using the disputed domain name for a gambling page that is likely used for phishing.

In this Panel's view, the Respondent has registered the disputed domain name to intentionally attract, for commercial gain Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's mark as to the source, affiliation or endorsement of the Respondent's website.

Given the above, the Panel finds that the Respondent has registered and is using the disputed domain name in bad faith, and that the Complainant has fulfilled the third element under 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 <axaxvip.com> be transferred to the Complainant.

/Mladen Vukmir/

Mladen Vukmir

Sole Panelist

Date: April 13, 2023