

ADMINISTRATIVE PANEL DECISION

AXA SA v. Pieri Lageveen
Case No. D2023-0851

1. The Parties

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

The Respondent is Pieri Lageveen, Spain.

2. The Domain Name and Registrar

The disputed domain name <axaloading.art> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 24, 2023. On February 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 27, 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 (Privacy service provided by Withheld for Privacy ehf /) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 7, 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 March 7, 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 10, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 30, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 12, 2023.

The Center appointed Kateryna Oliinyk as the sole panelist in this matter on April 25, 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 part of the AXA Group and is active in three major lines of business: property and casualty insurance, life insurance and savings, and asset management, proposed both to individuals and to business companies. The Complainant introduced its current tradename in 1985. The Complainant is currently present in over 50 countries and employs more than 110,000 people worldwide.

Since 1988 the Complainant has been trading on the Paris Stock Exchange and in 1996, it becomes listed on New York Stock Exchange.

In 2022, the AXA trademark is ranked 43th among the 100 best global brands according to the Interbrand ranking and the value of the brand is steadily increasing, representing over USD15,700 million.

The Complainant holds the registered trademark rights in the AXA trademark, which are conferred, *inter alia*, by the following trademark registrations:

- International Trademark Registration No. 490 030 for AXA, registered on December 5, 1984 and covering various jurisdictions;
- International Trademark Registration No. 1 519 781 for AXA (word and device), registered on May 29, 2019 and covering various jurisdictions;
- European Union Trademark Registration No. 373 894 for AXA (word and device), registered on September 21, 1998;
- European Union Trademark Registration No. 008 772 766 for AXA, registered on September 11, 2012;
- French Trademark Registration No. 1 270 658 for AXA, registered on January 10, 1984.

The Complainant also registers domain names consisting of or including its AXA trademark under a wide range of generic Top-Level Domains (“gTLDs”) as well as under country code Top-Level Domains (“ccTLDs”), including the following:

Domain name	Registration date
<axa.com>	October 23, 1995
<axa.fr>	May 20, 1996
<axa.net>	November 01, 1997
<axa.info>	July 30, 2001

The disputed domain name <axaloading.art> was created on October 28, 2022. Currently, the disputed domain name does not resolve to an active website.

The Complainant has sent three letters of formal notice to the Respondent to stop using the disputed domain name, on November 7, 16 and 24, 2022. The Respondent never responded to any of those letters.

5. Parties' Contentions

A. Complainant

Identical or Confusingly Similar

The Complainant contends that the disputed domain name and the AXA trademark are confusingly similar.

According to the Complainant's contentions, the disputed domain name fully incorporates the Complainant's AXA trademark.

The Complainant contends that the addition of the generic term “loading” does not prevent a finding of confusing similarity between the disputed domain name and the AXA trademark, as the AXA trademark remains recognizable in the disputed domain name.

The Complainant submits that the applicable generic gTLD in the disputed domain name should be viewed as a standard registration requirement and as such should be disregarded under the first element confusing similarity test.

No rights or legitimate Interests

The Respondent has no connection with the Complainant or any of its affiliates and has never sought or obtained any trademark registration for the AXA trademark. The Complainant does not carry out any activity for, nor have any business with, the Respondent.

The Complainant further contends that the Respondent is not commonly known by the disputed domain name.

Passive holding of the disputed domain name is neither a *bona fide* offering of goods or services nor a legitimate noncommercial or fair use. The Respondent, therefore, has no rights or legitimate interests in the disputed domain name.

Registered and used in bad faith

The Complainant submits that the Respondent registered and is using the disputed domain name in bad faith. The Complainant contends that the AXA trademark is famous and notorious and the Respondent must have been aware of the Complainant’s AXA trademark when it registered the disputed domain name as the disputed domain name incorporates it in its entirety.

The Complainant further contends that the passive holding of the disputed domain name does not preclude a finding of 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 the Panel as to the principles the Panel is to use in determining the dispute: “[a] Panel shall 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.”

Considering that the Respondent did not reply to the Complainant’s contentions, in order to determine whether the Complainant has met its burden as stated in paragraph 4(a) of the Policy, the Panel bases its Decision on the statements and documents submitted and in accordance with the Policy and the Rules. Under paragraph 14(b) of the Rules, where a Party does not comply with any provision of the Rules, the Panel “shall draw such inferences therefrom as it considers appropriate”.

Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following: (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and (iii) that the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

Under the first element, the Complainant must establish that the disputed domain name is identical with, or confusingly similar to, the Complainant's trademark rights.

There are two parts to this inquiry: the Complainant must demonstrate that it has rights in a trademark and, if so, the disputed domain name must be shown to be identical or confusingly similar to the trademark.

According to section 1.1.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), the term "trademark or service mark" as used in UDRP paragraph 4(a)(i) of the Policy encompasses both registered and unregistered (sometimes referred to as common law) marks.

Ownership of a nationally or regionally registered trademark serves as a *prima facie* evidence that the Complainant has trademark rights for the purposes of standing to file this Complaint. See section 1.2 of the [WIPO Overview 3.0](#). The Complainant submitted evidence that the AXA trademark enjoys protection under national, regional and international trademark registrations. Thus, the Panel finds that the Complainant's rights in the AXA trademark have been established pursuant to the first element of the Policy.

The disputed domain name consists of the Complainant's distinctive AXA trademark followed by the generic term "loading" followed by the gTLD ".art".

According to 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 (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The nature of such additional term may however bear on assessment of the second and third elements.

Under section 1.7 of the [WIPO Overview 3.0](#), while each case is judged on its own merits, 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.

Finally, for the purpose of assessing under paragraph 4(a)(i) of the Policy, the Panel may ignore the gTLD, see section 1.11.1 of the [WIPO Overview 3.0](#).

It is the view of the Panel that it is readily apparent that the Complainant's AXA trademark remains recognizable in the disputed domain name.

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the AXA trademark in which the Complainant has rights.

The first element of paragraph 4(a) of the Policy is therefore satisfied.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant must make at least a *prima facie* showing that a respondent possesses no rights or legitimate interests in a disputed domain name. See, e.g., *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#). Once a complainant makes such a *prima facie* showing, the burden of production shifts to the respondent, though the burden of proof always remains on the complainant. If the respondent fails to come forward with evidence showing rights or legitimate interests, the complainant will have sustained its burden under the second element of the UDRP.

Based on the Complainant's contentions, the Respondent is not a licensee of, or otherwise affiliated with, the Complainant, and has not been authorized by the Complainant to use its AXA trademark.

The Complainant further contends that the Respondent is not commonly known by the disputed domain name and has not made any *bona fide* use - neither commercial nor noncommercial, of the same.

Based on the case records, the Panel finds that there is no evidence that the Respondent has been commonly known by the disputed domain name, and there is no similarity or association between the name of the Respondent and the disputed domain name, which could demonstrate rights or legitimate interests of the Respondent. See, e.g., *World Natural Bodybuilding Federation, Inc. v. Daniel Jones TheDotCafe*, WIPO Case No. [D2008-0642](#)).

The disputed domain name does not resolve to an active website. Prior UDRP panels have found that the passive holding of a disputed domain name is neither a *bona fide* offering of goods or services nor a legitimate noncommercial or fair use. See, by way of example, *Skyscanner Limited v. WhoisGuard Protected, WhoisGuard, Inc. / petrov petya*, WIPO Case No. [DCC2020-0003](#), *Instagram, LLC v. Zafer Demir, Yok*, WIPO Case No. [D2019-1072](#), “The passive holding of the disputed domain name does not amount to use or preparations to use it in connection with a *bona fide* offering of goods and services. Nor is there any evidence which indicates that the Respondent is commonly known by the disputed domain name. Nor does a passive holding of the disputed domain name comprise a legitimate noncommercial or fair use of it”.

The Panel agrees and holds the passive holding of the disputed domain name by the Respondent in this case as evidence that the Respondent has not registered the disputed domain name in connection with any *bona fide* offering of goods or services.

In the Panel’s view, the use of the disputed domain name by the Respondent does not constitute either a *bona fide* use or a legitimate noncommercial or fair use of the disputed domain name.

By not submitting a Response, the Respondent has failed to invoke any circumstances which could demonstrate any rights or legitimate interests in the disputed domain name. Under such circumstances the Panel draws adverse inferences from this failure, where appropriate, in accordance with the Rules, paragraph 14(b).

The second element of paragraph 4(a) of the Policy is therefore satisfied.

C. Registered and Used in Bad Faith

Under section 3.3 of the [WIPO Overview 3.0](#), the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Previous UDRP panels have held that the passive holding of a domain name that incorporates a well-known trademark may confirm the bad faith use of a disputed domain name. See, *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

While UDRP panels 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 (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, *Andrey Ternovskiy dba Chatroulette v. WhoisGuard Protected, WhoisGuard, Inc. / Armando Machado*, WIPO Case No. [D2018-0082](#).

These bad faith consideration factors are also produced in section 3.3 of the [WIPO Overview 3.0](#).

The Complainant has produced evidence showing that it owns registrations for the AXA trademark, of which registration dates significantly precede the creation date of the disputed domain name.

In addition, the Complainant has credibly submitted that over the years it has developed substantial goodwill in the AXA trademark. The Panel is convinced that the Complainant’s trademark is well established through long and widespread use and the Complainant has acquired a significant reputation and goodwill in its

trademark. See, e.g., *Carrefour SA v. hanib bas*, WIPO Case No. [D2020-1798](#); *Carrefour SA. v. Reliant-web Domain Admin / Jean Marie Grolleau / Joanne Elvert*, WIPO Case No. [D2021-2389](#); *Carrefour v. Andre Machado*, WIPO Case No. [DIO2020-0004](#).

Furthermore, according to section 3.1.4 of the [WIPO Overview 3.0](#), the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. Given the reputation of the AXA trademark, registration in bad faith can be inferred. See, e.g., *Charles Jourdan Holding AG v. AAIM*, WIPO Case No. [D2000-0403](#).

Taking the above facts into consideration, it is not possible to conceive of any plausible actual or contemplated active use of the disputed domain name by the Respondent that would not be illegitimate. See *Telstra Corporation Limited v. Nuclear Marshmallows*, *supra*.

Finally, the Respondent has failed to submit a response or to provide any evidence of actual or contemplated good faith use of the disputed domain name. Similarly, the Respondent has not provided any response to the notices of right sent by the Complainant prior to initiation of this administrative proceeding.

Here, the Panel considers also the concealment of the identity of the holder of the disputed domain name through use of a privacy shield to be a further indication of bad faith (see, e.g., *BHP Billiton Innovation Pty Ltd v. Domains By Proxy LLC / Douglass Johnson*, WIPO Case No. [D2016-0364](#)).

In light of the aforesaid and applying the above-referenced factors, the Panel establishes that the Respondent registered and is using the disputed domain name in bad faith.

The third element of paragraph 4(a) of the Policy is therefore satisfied.

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 <axaloading.art> be transferred to the Complainant.

/Kateryna Oliinyk/
Kateryna Oliinyk
Sole Panelist
Date: May 15, 2023