

ADMINISTRATIVE PANEL DECISION

AXA SA v. born stellas, serte wew
Case No. D2023-4749

1. The Parties

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

The Respondent is born stellas, serte wew, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <axa-conexion.com> is registered with Web Commerce Communications Limited dba WebNic.cc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 15, 2023. On November 15, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 16, 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 (Domain Admin, whoisprotection.cc) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 17, 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 November 20, 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 November 30, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 20, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 22, 2023.

The Center appointed Alfred Meijboom as the sole panelist in this matter on January 3, 2024. 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 French holding company, which is active in the fields of insurance, saving, and asset management, serving 93 million customers and employing over 110,000 people worldwide. The Complainant's group is present in 51 countries and does business in diversified geographic regions and markets across notably Europe, Africa, North America, and Asia-Pacific. The Complainant's group has a long-standing history and its roots go back to the 18th century. After a succession of mergers, acquisitions, and name changes involving some of the biggest insurance companies around the world, the trade name "AXA" was introduced in 1985.

The Complainant is owner of registered trademarks for AXA, including:

-International trademark AXA, with registration number 490030 of December 5, 1984, in classes 35, 36, and 39, in particular for "advertising and business Insurance and financial services", and designating *inter alia* Algeria, Austria, Bosnia, Croatia, Egypt, Spain, Hungary, Italy, Morocco, Monaco, Portugal, Democratic People's Republic of Korea, Romania, Russian Federation, Sudan, Ukraine, Viet Nam, Yugoslavia, Benelux, and Switzerland; and

-International device mark AXA, with registration number 1519781 of May 29, 2019, in classes 35, 36, 37, 39, 44, and 45, in particular for "advertising, business assistance for industrial and commercial companies; Insurance underwriting and financial services; banking, real estate agency services, real estate affairs", and designating Australia, Colombia, the European Union, Japan, Mexico, Norway, the Philippines, Singapore, Thailand, Turkey, the United States, China, Algeria, Morocco, Russian Federation, and Ukraine.

The Complainant also operates "axa" domain names, including:

- <axa.com> registered on October 23, 1995;
- <axa.net> registered on November 01, 1997; and
- <axa.info> registered on July 30, 2001.

The disputed domain name was registered on April 20, 2023, and used an anonymization service when reserving the disputed domain name. The disputed domain name is passively held.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name reproduces the Complainant's AXA trademark in its entirety, which trademark as itself has no particular meaning and is therefore highly distinctive. The addition of term "conexion" does not prevent the likelihood of confusion between the disputed domain name and the Complainant's AXA trademark.

According to the Complainant, the Respondent has no rights or legitimate interests in respect of the disputed domain name as the Complainant has never licensed or otherwise permitted the Respondent to use its AXA trademark or to register any domain name including the Complainant's AXA trademark.

Also, the Complainant alleges that the Respondent does not seem to be commonly known by the disputed domain name or even associated with the name "AXA", while the Complainant's AXA trademark is well known. The Complainant further contends that the disputed domain name is not used in connection with a *bona fide* offering of goods or services as it is passively held and resolves to an inaccessible webpage. This passive holding of the disputed domain name does not constitute a legitimate noncommercial use of the disputed domain name.

The Complainant contends that the disputed domain name was registered in bad faith because the Respondent was obviously aware of the Complainant's AXA trademark, which is internationally famous and enjoys worldwide good reputation, at the time of registration of the disputed domain name. The Complainant also contends that the disputed domain name is used in bad faith because it is passively held, while the Complainant's AXA trademark has a strong reputation and is widely known, the fact that the disputed domain name resolves to an inactive webpage shows that the Respondent is not seriously interested in actively using the disputed domain name, and the Respondent chose to register the disputed domain name via a privacy proxy registration service.

B. Respondent

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

6. Discussion and Findings

The Respondent did not file a Response. However, as set out in section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), the consensus view of UDRP panels is that the respondent's default does not automatically result in a decision in favor of the complainant. The Complainant must still establish each of the three elements required by paragraph 4(a) of the Policy. Although the Panel may draw appropriate inferences from the Respondent's default, paragraph 4 of the Policy requires the Complainant to support its assertions with actual evidence in order to succeed in this proceeding. Paragraph 14(b) of the Rules provides that, in the absence of exceptional circumstances, the panel shall draw such inferences as it considers appropriate from a failure of a party to comply with a provision or requirement of the Rules. The Panel finds that in this case there are no such exceptional circumstances.

Under the Policy, the Complainant must prove that:

- (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.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's AXA trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the Complainant's AXA trademark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the Complainant's AXA trademark for the purposes of the Policy ([WIPO Overview 3.0](#), section 1.7).

Although the addition of the term "-conexion" may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's AXA trademark for the purposes of the Policy ([WIPO Overview 3.0](#), section 1.8).

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element ([WIPO Overview 3.0](#), section 2.1).

Having reviewed the available record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel considers that other UDRP panels have found the Complainant's AXA trademark to be famous (e.g., *AXA SA v. WhoisSecure / Emeka Nwonye*, WIPO Case No. [D2022-0904](#); and *AXA SA v. Lieselotte Hildebrandt*, WIPO Case No. [D2023-0800](#)), and the evidence in the present case supports such finding of the Complainant's AXA trademark's reputation indeed. From the Complainant's AXA trademark's reputation, in absence of the Respondent's rebuttal, the Panel infers that the Respondent must have had the Complainant's AXA trademark in mind when it registered the disputed domain name, which makes the registration of the disputed domain name in bad faith.

Further, panels have found that the non-use of a domain name (including a blank page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists 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, and

(iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement) ([WIPO Overview 3.0](#), section 3.3). Having reviewed the available record, the Panel notes the reputation of the Complainant's AXA trademark, and the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Based on the available record, the Panel finds that the Complainant has established the third element 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 <axa-conexion.com> be transferred to the Complainant.

/Alfred Meijboom/

Alfred Meijboom

Sole Panelist

Date: January 17, 2024