

ADMINISTRATIVE PANEL DECISION

AXA SA v. Axabanque axa, axabanquegroup
Case No. D2024-1065

1. The Parties

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

The Respondent is Axabanque axa, axabanquegroup, Estonia.

2. The Domain Name and Registrar

The disputed domain name <axabanquegroup.com> is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 11, 2024. On March 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 11, 2024, 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 (Contact Privacy Inc. Customer 0167982373) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 13, 2024, 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 13, 2024.

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 21, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 10, 2024. The Respondent sent an email communication to the Center on March 21, 2024.

The Center appointed Ganna Prokhorova as the sole panelist in this matter on April 24, 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 company, holding of the AXA Group, which has traded under the AXA mark since 1985. It is a world leader in insurance, saving, and asset management, employing 145,000 people worldwide and serving 93 million customers in 51 countries as clearly presented in Annex 6 to the Complaint.

The Complainant is the proprietor of many registered trademarks comprising the AXA mark including:

- International trademark AXA, no. 490030, registered on December 5, 1984, in classes 35, 36, and 39, in particular for “advertising and business; and insurance and financial services”; and
- European Union trademark AXA, no. 008772766, registered on September 7, 2012, in classes 35 and 36, in particular for the following services: “Insurance and finance; and banking services”.

For nine consecutive years and until 2017, the Complainant’s AXA trademark was considered as the leading global insurance brand (Annex 9). In 2023, “AXA” is ranked at 43th position among the 100 best global brands according to the Interbrand ranking and the value of the brand is steadily increasing, representing over USD 15,700 million.

The disputed domain name was registered on July 30, 2023, and resolves to inactive website.

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:

(1) The disputed domain name is confusingly identical to the trademarks in which the Complainant has prior rights. The disputed domain name reproduces identically the trademark AXA which as itself has no particular meaning and is therefore highly distinctive. The adjunction of the generic terms “banque” and “group” does not diminish the confusing similarity between the disputed domain name and the Complainant’s trademark and refers directly to the activities of the Complainant.

(2) The Respondent has no rights or legitimate interest in respect of the disputed domain name. The Complainant has never licensed or otherwise permitted the Respondent to use its trademarks or to register any domain name including the above-mentioned trademarks. The Respondent has no prior rights and/or legitimate interests to justify the use of the Complainant’s trademarks. The Respondent has clearly adopted the Complainant’s trademark, which has acquired a substantial reputation around the world, for its own use and incorporated it into his disputed domain name without the Complainant’s authorization. The Respondent does not seem commonly known by the disputed domain name or even associated with the name AXA. The disputed domain name is not used in connection with a bona fide offering of goods or services. Passive holding of a domain name does not constitute legitimate non-commercial or fair use of it.

(3) The disputed domain name was registered intentionally and is being used in bad faith by the Respondent. The Respondent was aware of the Complainant's AXA trademarks at the time that it acquired the disputed domain name due to the undeniable reputation of the Complainant and its trademarks. The disputed domain name is undeveloped. Passive holding may be considered as used in bad faith.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

The Respondent did not provide an official Response to the Complainant's contentions, simply mentioning in the email "[...] I have no intention of usurping or using the reputation of the real Axa bank. It was by pure coincidence that the domain name was registered. I therefore ask you to revoke, cancel or delete it because I have not made any use of it and I have no intention of using it."

6. Discussion and Findings

The burden for the Complainant under paragraph 4(a) of the Policy is to prove that:

- (i) the disputed domain name is identical or 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.

The Respondent had 20 days to submit a response in accordance with paragraph 5(a) of the Rules and failed to do so. Paragraph 5(f) of the Rules establishes that if a respondent does not respond to the Complaint, the Panel's decision shall be based upon the Complaint.

However, even if the Respondent has not replied to the Complainant's contentions, the Complainant still bears the burden of proving that all these requirements are fulfilled. Concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

It is further noted that the Panel has taken note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the consensus views captured therein.

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 trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Having carefully inspected the case file, this Panel considers that the Complainant has shown rights in respect of the AXA trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel also finds that the entirety of the AXA trademark is reproduced within the disputed domain name. Although the addition of other terms here, "banque" and "group", may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's 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.

The Panel notes that the Respondent is not affiliated with the Complainant in any way, nor has he been authorized by the Complainant to use and register its trademarks, or to seek registration of any domain name incorporating the Complainant’s trademark. Additionally, the Complainant has contended that the Respondent possesses no prior rights or legitimate interests in the disputed domain name, a claim which the Respondent has failed to refute.

In fact, in his unofficial reply, the Respondent did not claim to have any rights or legitimate interests in the disputed domain name. On the contrary, the Respondent offered to “[...] revoke, cancel or delete [...]” the disputed domain name because it has not made any use of it and has no intention of using it.

Furthermore, according to the case file, the Panel notes that the Respondent is not commonly known by the disputed domain name, whereas the Complainant has prior rights in the trademarks, which precede the Respondent’s registration of the disputed domain name by years.

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 notes that the Respondent must have been aware of the Complainant’s trademark as the disputed domain name was registered almost forty years after the registration of the Complainant’s trademark. The Complainant’s trademark is not a dictionary word in English or French and is well known. The disputed domain name consists of the Complainant’s mark and two words “banque” and “group” written in French language, where the Complainant is domiciled. Therefore, it is highly likely that the Respondent knew of the Complainant’s trademark and its significance in the market when registering the disputed domain name.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have found that the non-use of a domain name 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 distinctiveness or reputation of the Complainant's 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 <axabanquegroup.com> be transferred to the Complainant.

/Ganna Prokhorova/

Ganna Prokhorova

Sole Panelist

Date: May 3, 2024