

ADMINISTRATIVE PANEL DECISION

AXA SA v. Arnold Knapp, PASSARELLI

Case No. D2024-1430

1. The Parties

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

The Respondent is Arnold Knapp, PASSARELLI, Germany.

2. The Domain Name and Registrar

The disputed domain name <axalinebank.com> is registered with OwnRegistrar, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 4, 2024. On April 4, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 4, 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 (unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 8, 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 April 8, 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 April 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 2, 2024. The Respondent sent email communications to the Center on April 16, 2024, to which the Center acknowledged receipt.

The Center appointed John Swinson as the sole panelist in this matter on May 10, 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 a leading international insurance, savings and asset management company. The Complainant has used the trading name AXA since 1985, and was listed on the Paris Stock Exchange in 1988 and the New York Stock Exchange in 1996.

The Complainant has 93 million customers, over 110,00 employees and has a presence in 51 countries.

The Complainant has a portfolio of trademark registrations for AXA, including European Trademark Registration No. 008 772 766 for AXA filed on December 21, 2009.

The Complainant uses domain names such as <axa.com> and <axa.fr> that were registered in 1995 and 1996 respectively.

The Respondent did not file a formal Response, so little information is known about the Respondent. According to the Registrar's records, the Respondent is an organization called "PASSARELLI" with an address in Berlin.

The disputed domain name was registered on July 4, 2023.

At the time of filing of the Complaint, the disputed domain name was not being used in connection with an active website.

At the present time, the disputed domain name resolves to a webpage with an error message that states: "This account has been suspended. Either the domain has been overused, or the reseller ran out of resources."

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 Complainant's AXA trademark is famous, and that the disputed domain name incorporates the famous AXA trademark in its entirety, and, by its very composition, falsely suggests the Complainant's sponsorship or endorsement of the Respondent's activities.

B. Respondent

The Respondent did not reply in substance to the Complainant's contentions. On April 16, 2024, a person with the same email address as the Registrant's email address as set out in the Registrar's records sent three identical emails to the Center that state:

"Look, I don't understand your actions. At the request of a client, I created a website with your domain name. Now you are taking unnecessary steps when the domain information only comes from what the customer provided to me, and does not reflect reality. Save your money and energy by stopping this. Otherwise, I will not hesitate to block all your emails. You better reconsider your approach."

While the Respondent is the registrant of the disputed domain name, as confirmed by the Registrar, the Panel notes that the Respondent claims to have created a website at the request of a client. The Center informed the Respondent that it was not in a position to assess such assertion, which would be a matter for the appointed Panel, and informed the Respondent of the possibility of forwarding the notification of Complaint to the alleged client. However, the Center did not receive any further explanation in this regard,

nor evidence of the claimed relationship between the Respondent and its client. The Panel considers the registrant Arnold Knapp, PASSARELLI, as the Respondent in this proceeding.

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied, namely:

- (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 trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

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 entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms (here, "line" and "bank") 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 mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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.

Emails from the Respondent suggest that the Respondent registered the disputed domain name on behalf of an unidentified client. This is an additional circumstance that tends to show that the Respondent lacks rights or legitimate interests in the disputed domain name. There is not sufficient evidence to demonstrate that the Respondent registered the disputed domain name following an agreement with its client (which would not necessarily amount to rights or legitimate interests in the disputed domain name under the Policy), or that the client of the Respondent would itself have rights or legitimate interests in the disputed domain name. See *Fantage.com, Inc. v. PrivacyProtect.org /Privacy Domain Manager a subsidiary of Taylored Web Creations*, WIPO Case No. [D2012-0867](#).

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.

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.

The Complainant's well-known trademark is entirely reproduced in the disputed domain name. The Respondent has provided no evidence whatsoever of any actual or contemplated good faith use by it of the disputed domain name. See the findings in *AXA SA v. Frank Van*, WIPO Case No. [D2014-0863](#), which is a case that has similar facts to the present case.

Panels have found that the non-use of a domain name (including a blank, "coming soon" or error 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 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.

The Panel also notes that in July 2023, before filing the Complaint, the Complainant wrote twice to the Respondent raising issues relevant to the Complainant, but the Respondent failed to respond to such correspondence. This does not suggest good faith by the Respondent.

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 <axalinebank.com> be transferred to the Complainant.

/John Swinson/

John Swinson

Sole Panelist

Date: May 24, 2024