

ADMINISTRATIVE PANEL DECISION

AXA SA v. Jean Sanders, Kostendelende Vereniging AXA Royal Case No. D2024-1431

1. The Parties

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

The Respondent is Jean Sanders, Kostendelende Vereniging AXA Royal, Belgium.

2. The Domain Name and Registrar

The disputed domain name <axa-belgium.com> is registered with Network Solutions, LLC (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 7, 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 (No information) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 10, 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 15, 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 17, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 7, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 10, 2024.

The Center appointed Andrea Jaeger-Lenz as the sole panelist in this matter on May 20, 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 holding company of the AXA Group based in France with worldwide operations. It is active under the business name AXA since 1985 and engages in three major lines of business, which are property and casualty insurance, life insurance and savings, and asset management for individuals and businesses. AXA Group counts more than 110,000 employees serving 93 million customers around the world. According to an Interbrand ranking in 2023 (Annex 10) "AXA" is ranked 43th among the 100 best global brands, representing a brand value of more than USD 15,700 million.

Amongst others, the Complainant is owner of the following trademarks (as per Annexes 11, 12 and 13):

- International trademark no. 490030 "AXA" (word), registered on December 5, 1984 in Classes 35, 36, and 39, with designations, inter alia, in Algeria, Austria, Benelux Office for Intellectual Property, Bosnia and Herzegovina, Croatia, Egypt, Hungary, Italy, Russian Federation, Spain, Switzerland, Viet Nam;
- European Union trademark no. 373894 "AXA" (device), registered on July 29, 1998 in Classes 35 and 36; and
- French trademark registration no. 1270658 "AXA" (word), registered on January 10, 1984 in Classes 35, 36, and 42.

The Complainant operates the domain names <axa.com>, registered on October 24, 1995, which resolves to the Complainant's principal website, as well as <axa.fr>, registered on May 19, 1996, <axa.net>, registered on November 2, 1997, and <axa.info>, registered on July 30, 2001.

The disputed domain name was registered on February 21, 2002. It is passively held and leads to a website which is not accessible (Annex 18).

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, on the first element, that it owns rights in the trademark "AXA". This trademark is identically reproduced in the disputed domain name, and the addition of the geographically descriptive elements "belgium" does not diminish the confusing similarity. Internet users would, so the Complainant, hold it to be another official website of the Complainant, dedicated to the Belgian market.

On the second element, the Complainant states that it has not licensed or authorized the Respondent to use its trademark. The Respondent is not affiliated to the Complainant either, nor has the Complainant authorized the Respondents to register or use the disputed domain name, nor has the Complainant endorsed or sponsored the Respondents' websites. The Complainant claims that the Respondent is not commonly known by any of the disputed domain name. It is not in use for any bona fide offering of goods or services, but merely passively held for a website which is not accessible (Annex 18). Formal notices of the Complainant (Annex 19) remained unanswered.

On the third element, the Complainant points to its trademark AXA having become internationally famous and having acquired a reputation even before the registration of the disputed domain name by pointing to substantial activities before the year 2000 (Annex 5). Thus, the Respondent must have been aware of the Complainant's trademark before acquisition of the disputed domain name. Incorporating the well-known term "AXA" into the disputed domain name shows that the Respondent intentionally targeted the Complainant. Even though passively held, says the Complainant, the disputed domain name is used in bad faith under the case law of UDRP panels. To this end, the Complainant particularly points to the decision *Telstra Corporation Limited v, Nuclear Marshmallows*, WIPO case No. [D2000-0003](#).

B. Respondent

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

6. Discussion and Findings

A. Delay in bringing the Complaint

The Panel notes that the disputed domain name was registered more than 20 years before the Complainant chose to bring the present Complaint. Panels have widely recognized that mere delay between the registration of a domain name and the filing of a complaint neither bars a complainant from filing such case, nor from potentially prevailing on the merits. The UDRP remedy is injunctive rather than compensatory, and that a principal concern is to halt ongoing or avoid future abuse/damage, not to provide equitable relief. Panels have furthermore noted that trademark owners cannot reasonably be expected to permanently monitor for every instance of potential trademark abuse, nor to instantaneously enforce each such instance they may become aware of, particularly when cybersquatters face almost no (financial or practical) barriers to undertaking (multiple) domain name registrations. Therefore, concepts such as laches or statute of limitation are, as a rule, not applicable in UDRP cases, absent specific circumstances of the case,, particularly where a respondent can show detrimental reliance on the delay. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 4.17. The Panel agrees with this practice and considers it appropriate to apply it in the present case despite the substantial delay of 22 years, given that the Respondent chose not to reply to the formal notices of the Complainant as per Annex 19 nor to file any response to the Complaint as such.

B. 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.

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. These even predate the registration of the disputed domain name.

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, "belgium", 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 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.

C. 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. In particular, the mere fact that the Respondent in its registrant details as revealed by the Registrar claims to be "Jean Sanders, Kostendelende Vereniging AXA Royal, Belgium", does not amount to any demonstrable preparations to use the disputed domain name in connection with a bona fide offering of services under [WIPO Overview 3.0](#), section 2.2 or that it is commonly known by the disputed domain name under [WIPO Overview 3.0](#), section 2.3.

The Panel finds that the Complainant has established the second element of the Policy.

D. 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 has passively held 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 (including a blank or "coming soon" 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 accepts that AXA is a well-known trademark. Given the composition of the disputed domain name, which might typically have been used by the Complainant for a website targeting its Belgian customers, had it been available for registration, the Panel 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 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-belgium.com> be transferred to the Complainant.

/Andrea Jaeger-Lenz/

Andrea Jaeger-Lenz

Sole Panelist

Date: June 3, 2024