

ADMINISTRATIVE PANEL DECISION

AXA SA v. Privacy service provided by Withheld for Privacy ehf / ddahsu4

Lyn

Case No. D2022-1061

1. The Parties

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

The Respondent is Privacy service provided by Withheld for Privacy ehf, Iceland / ddahsu4 Lyn, Taiwan Province of China.

2. The Domain Names and Registrar

The disputed domain names <axacplus.com>, and <axaeplus.com> are registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 28, 2022. On March 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On March 29, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names, which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on March 30, 2022 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 30, 2022.

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 7, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 27, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 13, 2022.

The Center appointed Taras Kyslyy as the sole panelist in this matter on May 18, 2022. 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 provides insurance and asset management services employing 153 000 people worldwide and serving 105 million customers.

The Complainant owns a number of registrations for its AXA trademark in numerous jurisdictions, including for instance international registration No. 490030, registered on December 5, 1984 in Classes 35, 36, and 39.

The Complainant also owns a number of domain names, which reproduce its AXA trademark, including for instance <axa.com>.

The disputed domain names were registered on September 15, 2021, and do not resolve to any active websites.

5. Parties' Contentions

A. Complainant

The disputed domain names are identical or confusingly similar to the Complainant's trademark. The disputed domain names incorporate the entirety of the Complainant's famous trademark. Besides, associated with the letters "e" or "c" and the dictionary term "plus", which does not mean anything specific, the Complainant's trademark is the dominant element of the disputed domain names, thus the only element that Internet users will remember.

The Respondent has no rights or legitimate interests in the disputed domain names. The Complainant has never licensed or otherwise permitted the Respondent to use its trademark or to register any domain name including the Complainant's trademark. The Respondent is not making a fair use of the disputed domain names without intent for commercial gain and is misleadingly diverting consumers. Passive holding of the disputed domain names does not constitute "legitimate noncommercial use" of it.

The disputed domain names were registered and are being used in bad faith. The Respondent was aware of the Complainant's famous trademark at the time that he acquired the disputed domain names. The disputed domain names incorporate the Complainant's famous trademark, which confirms the bad faith. Passive holding of the disputed domain names shall be considered as the bad faith use. The bad faith is also confirmed by use of privacy proxy registration service for registration of the disputed domain names.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

According to section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (the "[WIPO Overview 3.0](#)") the applicable gTLD in a domain name (e.g., ".com", ".club", ".nyc") is viewed as a standard registration requirement and as such is disregarded under the first element

confusing similarity test. Thus, the Panel disregards gTLD “.com” for the purposes of the confusing similarity test.

According to section 1.7 of the [WIPO Overview 3.0](#) in cases where a domain name incorporates the entirety of a trademark the domain name will normally be considered identical or confusingly similar to that mark for purposes of UDRP standing. The Panel finds that in the present case the disputed domain names incorporate the Complainant’s trademark in its entirety.

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 Panel finds that in the present case the addition of letter “c” to the disputed domain name <axacplus.com> and letter “e” to the disputed domain name <axaeplus.com>, as well as term “plus” to both of the disputed domain names does not prevent a finding of confusing similarity.

Considering the above the Panel finds the disputed domain names are confusingly similar to the Complainant’s trademark, therefore, the Complainant has established its case under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant has established *prima facie* that the Respondent has no rights or legitimate interests in the disputed domain name. Then, 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.

Furthermore, the Respondent provided no evidence that it holds rights or legitimate interests in the disputed domain name.

The Complainant did not license or otherwise agree for use of its prior registered trademark by the Respondent, and noting the lack of Response along with the passive holding of the disputed domain names, no actual or contemplated *bona fide* or legitimate use of the disputed domain names could be reasonably found (see, e.g., *Sportswear Company S.P.A. v. Tang Hong*, WIPO Case No. [D2014-1875](#)).

The Respondent has no right or legitimate interests in the disputed domain names resolving to an inactive website (see, e.g., *Philip Morris USA Inc. v. Daniele Tornatore*, WIPO Case No. [D2016-1302](#)).

Considering the above, the Panel finds the Respondent does not have rights or legitimate interests in the disputed domain names. Therefore, the Complainant has established its case under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

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. 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 level of goodwill in its trademark nearly worldwide. Thus, the Panel finds that the disputed domain names confusingly similar to the Complainant’s trademark were registered in bad faith.

According to section 3.3 of the [WIPO Overview 3.0](#) from the inception of the UDRP, panelists 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. In this regard the Panel takes into account (i) the high degree of distinctiveness and reputation of the Complainant’s trademark, (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 while registering the disputed domain names, and (iv) the implausibility

of any good faith use to which the disputed domain names may be put.

Considering the above, the Panel finds the disputed domain names were registered and are being used in bad faith. Therefore, the Complainant has established its case under paragraph 4(a)(iii) 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 names, <axacplus.com>, and <axaeplus.com> be transferred to the Complainant.

/Taras Kyslyy/

Taras Kyslyy

Sole Panelist

Date: June 1, 2022