

ADMINISTRATIVE PANEL DECISION

AXA SA v. goodgo daddy1, bangkok
Case No. D2024-0307

1. The Parties

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

Respondent is goodgo daddy1, bangkok, Thailand.

2. The Domain Name and Registrar

The disputed domain name <axaindia.com> (the “Domain Name”) is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 24, 2024. On January 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On January 26, 2024, the Registrar transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 Respondent of the Complaint, and the proceedings commenced on February 6, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 26, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on March 1, 2024.

The Center appointed John C. McElwaine as the sole panelist in this matter on March 8, 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

Complainant, AXA SA, is a globally renowned insurance and financial services company, with a history dating back to the 18th century. Relevant to this matter, Complainant owns the following trademark registrations:

- European Union - AXA (and design), European Union Trademark (“EUTM”) Registration No. 373 894, filed on August 28, 1996, in classes 35 and 36;
- European Union - AXA, EUTM Registration No. 008 772 766, filed on December 21, 2009, in classes 35 and 36; and
- France - AXA, French Registration No. 1 270 658 filed on January 10, 1984, in classes 35, 36 and 42.

Collectively these trademark rights are referred to herein as the “AXA Mark.”

Respondent registered the Domain Name on March 7, 2017. At the time of filing of the Complaint, the Domain Name did not resolve to an active website.

5. Parties’ Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

As background, Complaint asserts that it is a globally recognized insurance and financial services company, and that it holds numerous trademarks for the AXA in various jurisdictions, dating back to 1984. The Complaint highlights Complainant’s extensive history and presence in the insurance and financial services sectors, as well as its global reputation and substantial investments in brand recognition and marketing efforts.

With respect to the first element of the Policy, Complainant contends that the Domain Name is confusingly similar to its registered AXA Mark. Despite the addition of the geographic term “India” to the Domain Name, Complainant argues that the distinctive element of the Domain Name, AXA, is identical to its AXA Mark, and asserts that the mere addition of descriptive or geographic terms to a trademark in a domain name is insufficient to avoid a finding of confusing similarity. Furthermore, Complainant contends that the inclusion of “India” in the Domain Name only exacerbates the confusion, as it suggests a connection with Complainant’s business activities in India.

With respect to the second element of the Policy, Complainant argues that Respondent has no authorization or license to use its AXA Mark and has not been commonly known by the Domain Name. Additionally, Complainant asserts that Respondent has not made any bona fide offering of goods or services using the Domain Name and that the passive holding does not constitute legitimate non-commercial use.

Finally, with respect to the third element of the Policy, Complainant alleges that Respondent registered and is using the Domain Name in bad faith. Complainant contends that Respondent must have been aware of Complainant’s AXA Mark at the time of registration due to its international fame and reputation. The Complaint highlights Respondent’s intentional incorporation of the AXA Mark into the Domain Name, along with the geographic descriptor “India,” as evidence of bad faith registration. Furthermore, Complainant asserts that Respondent’s passive holding of the Domain Name for over six years without making any legitimate use of it constitutes bad faith use.

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

Even though Respondent did not formally reply to the Complaint, paragraph 4 of the Policy requires that, in order to succeed in this UDRP proceeding, Complainant must still prove their assertions with evidence demonstrating:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

Because of the absence of a formal Response, the Panel may accept as true the reasonable factual allegations stated within the Complaint and may draw appropriate inferences therefrom. See *St. Tropez Acquisition Co. Limited v. AnonymousSpeech LLC and Global House Inc.*, WIPO Case No. [D2009-1779](#); *Bjorn Kasso Andersen v. Direction International*, WIPO Case No. [D2007-0605](#); see also paragraph 5(f) of the Rules (“If a Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the complaint”). Having considered the Complaint, the Policy, the Rules, the Supplemental Rules and applicable principles of law, the Panel’s findings on each of the above cited elements are as follows:

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 Complainant’s trademark and the Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[WIPO Overview 3.0](#)”), section 1.7.

Here, Complainant has shown valid trademark rights by virtue of its trademark registrations for the AXA Mark. [WIPO Overview 3.0](#), section 1.2.1. In addition, the Domain Name includes the AXA Mark in its entirety with the addition of the geographic term “India”. The addition of a geographic term does not prevent a finding of confusing similarity. See section 1.8 of the [WIPO Overview 3.0](#). Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Having reviewed the available record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the Domain Name. Respondent has not rebutted Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Name such as those enumerated in the Policy¹ or otherwise. Complainant has demonstrated that there is no evidence in the Whois data for the Domain Name indicating that Respondent has been commonly known by the terms “AXA India”, rather, the Whois data provided by the Registrar for the Domain Name indicates that the registrant’s name is “goodgo daddy1.”

¹ The Policy, paragraph 4(c), provides a non-exhaustive list of circumstances in which a respondent could demonstrate rights or legitimate interests in a contested domain name: “(i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or (ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or (iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.”

Also, as it pertains to Complainant's assertion that Respondent is not authorized by Complainant to use the AXA Mark, although Respondent has been properly notified of the Complaint by the Center, Respondent failed to submit a formal response on this point. The silence of a respondent may support a finding that it has no rights or legitimate interests in respect of the domain name. See *Alcoholics Anonymous World Services, Inc., v. Lauren Raymond*, WIPO Case No. [D2000-0007](#); *Ronson Plc v. Unimetal Sanayi ve Tic.A.S.*, WIPO Case No. [D2000-0011](#). Additionally, previous UDRP panels have found that when respondents have not availed themselves of their rights to respond to complainant, it can be assumed in appropriate circumstances that respondents have no rights or legitimate interests in the domain name at issue. See *AREVA v. St. James Robyn Limoges*, WIPO Case No. [D2010-1017](#); *Nordstrom, Inc. and NIHC, Inc. v. Inkyu Kim*, WIPO Case No. [D2003-0269](#).

Complainant contends that Respondent has failed to make any use of the Domain Name for more than six years. Complainant points out that the Domain Name leads to an inactive website, and as such, is not used in connection with a bona fide offering of goods or services pursuant to Policy, paragraph 4(c)(i). See *Société nationale des télécommunications: Tunisie Telecom v. Ismael Leviste*, WIPO Case No. [D2009-1529](#) (noting that passive holding of a disputed domain name "does not constitute a legitimate use of such a domain name" that would give rise to a legitimate right or interest in the name); *Philip Morris USA Inc. v. Daniele Tornatore*, WIPO Case No. [D2016-1302](#) (respondent had no rights or legitimate interests in the disputed domain name where the disputed domain name resulted to an inactive website); *Philip Morris USA Inc. v. Elijah Etame*, WIPO Case No. [D2016-0968](#) ("the Panel cannot imagine any potentially legitimate interest that Respondent might have in the disputed domain names based on the manner in which the disputed domain names have been used on the inactive websites").

Based on the foregoing, Complainant has made a prima facie showing of Respondent's lack of any rights or legitimate interests and Respondent has failed to come forward to rebut that showing. As provided for by paragraph 14(b) of the Rules, the Panel may draw such inference from Respondent's default as it considers appropriate. The Panel finds that Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Under paragraph 4(a)(iii) of the Policy, Complainant must show that Respondent registered and is using the Domain Name in bad faith. A non-exhaustive list of factors constituting bad faith registration and use is set out in paragraph 4(b) of the Policy.

Bad faith registration can also be found where respondents "knew or should have known" of complainant's trademark rights and nevertheless registered a domain name in which they had no rights or legitimate interests. See *Accor S.A. v. Kristen Hoerl*, WIPO Case No. [D2007-1722](#). Here, the AXA Mark represents the goodwill of a well-known global insurance company. Based on Complainant's submissions, which were not rebutted, Respondent likely knew of Complainant's AXA Mark when it registered the Domain Name, which is almost identical to Complainant's AXA Mark but for the addition of the geographic descriptor India. Based on Complainant's submissions, which were not rebutted, the Panel finds that Respondent knew or should have known of Complainant's well-known AXA Mark, when it registered the Domain Name.

The fact that the Domain Name does not resolve to an active website does not obviate a finding of bad faith use of the Domain Name. When a domain name is being passively held, the question of bad faith use does not squarely fall under one of the aforementioned non-exhaustive factors set out in paragraph 4(b) of the Policy, and section 3.3 of the [WIPO Overview 3.0](#), instructs that panels should examine the totality of the circumstances in each case and that the following factors that have been considered relevant in applying the passive holding doctrine: "(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, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put." *Id.*

Here, Complainant submitted evidence that the AXA Mark is distinctive and well-known having been used for almost 40-years on an international basis and that Complainant is a leading global insurance brand. On the other hand, Respondent did not respond to the Complaint and has provided no evidence of its intended use of the Domain Name. Moreover, given the coined and unique nature of the AXA Mark, it seems highly likely that the Domain Name was registered to draw an association with Complainant. Respondent has not offered any evidence to rebut this conclusion. By virtue of its failure to respond to the Complaint, Respondent provided no evidence of its intended use of the Domain Name. In addition, Respondent appears to have concealed its true identity by using a made up name or grossly incomplete contact information. In light of these factors, the Panel finds that Respondent's passive holding of the Domain Name satisfies the requirement of paragraph 4(a)(iii) of the Policy that the Domain Name was registered and is being used in bad faith by Respondent.

Based on the uncontested facts discussed in the previous sections, Respondent does not appear to have any rights or legitimate interests in the Domain Name nor does there appear to be any justification for Respondent's choice to register the Domain Name. Accordingly, on balance, there does not appear to be any other reason for Respondent's registration of the Domain Name other than for the possibility to trade off the goodwill and reputation of Complainant's AXA Mark or otherwise to create a false association with Complainant. With no response from Respondent, this claim is undisputed.

In sum, the Panel finds that Respondent knew or should have known of Complainant's trademark rights and that Respondent's non-use of the Domain Name does not prevent a finding of registration and use of the Domain Name in bad faith under the doctrine of passive holding under the circumstances of this case. For these reasons, the Panel holds that Complainant has met its burden of showing that Respondent registered and is using the Domain Name in bad faith.

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 Domain Name <axaindia.com> be transferred to Complainant.

/John C McElwaine/

John C McElwaine

Sole Panelist

Date: March 22, 2024