

## **ADMINISTRATIVE PANEL DECISION**

**AXA SA v. Privacy service provided by Withheld for Privacy ehf / Remi Tonit**  
Case No. D2022-0297

### **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 / Remi Tonit, United Kingdom.

### **2. The Domain Name and Registrar**

The disputed domain name <axa.cam> is registered with NameCheap, Inc. (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on January 28, 2022. On January 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 28, 2022, 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, and contact information in the Complaint. The Center sent an email communication to the Complainant on January 31, 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 January 31, 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 February 1, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 21, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 22, 2022.

The Center appointed James Bridgeman as the sole panelist in this matter on February 24, 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 services in numerous jurisdictions across the world under the AXA service mark and has provided evidence that it owns the following portfolio of registrations:

- International Trademark registration AXA, registration number 490030, registered on December 5, 1984, for services in classes 35, 36, and 39;
- International Trademark registration AXA, registration number 1519781, registered on May 29, 2019 for services in classes 35, 36, 37, 39, 44, and 45;
- European Union Trade Mark AXA and design, registration number 000373894, registered on July 29, 1998, for services in classes 35 and 36;
- European Union Trade Mark AXA, registration number 8772766, registered on September 7, 2012 for services in classes 37 and 36;
- French registered trademark AXA, registration number 1270658, registered on January 10, 1984 for services in international classes 35, 36, and 42.

In Cameroon, where the Respondent claims to be established, the Complainant offers its services through its affiliate company "AXA Cameroun".

The Complainant also has an established Internet presence, hosting its official website at "www.axa.com" and owns a large portfolio of domain name registrations including <axa.cm>.

The disputed domain name was registered on January 8, 2022. It does not presently resolve to any active website, but at the time of filing the Complaint, it resolved to a website that was mimicking the Complainant's website at "www.axa.cm".

There is no information available about the Respondent, except for that provided in the Complaint, the Registrar's Whois, and the information provided by the Registrar in response to the request by the Center for verification of the registration details of the disputed domain name for the purposes of this proceeding.

The Registrar disclosed that the Respondent is the registrant of the disputed domain name.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant alleges that the disputed domain name is identical to the AXA mark in which the Complainant claims rights established by its ownership of its portfolio of service mark registrations described above and the goodwill that it has established by use of the mark in its insurance business in 54 countries, employing 153,000 people worldwide, serving 105 million customers as show in the documentation annexed to the Complaint.

The Complainant argues that the disputed the domain name reproduces identically the AXA mark, which has no particular meaning and is therefore highly distinctive.

The Complainant adds that because the disputed domain name is composed solely of the AXA mark, which is well known around the world in the field of insurance services, the likelihood of confusion between the Complainant's mark and the disputed domain name is indisputable.

It is submitted that because of the similarity of the mark and the disputed domain name, Internet users are likely to believe that the website “www.axa.cm” to which the disputed domain name resolves, is an official website of the Complainant, referring to the Complainant’s services and activities, notably in Cameroon, because the extension <.cam> could be associated with Cameroon, where the Complainant has an established presence, providing its services through its affiliate company “AXA Cameroun”.

Next the Complainant alleges that the Respondent has no rights or legitimate interests in the disputed domain name asserting that there is no relationship whatsoever between the Complainant and the Respondent and it has never licensed or otherwise permitted the Respondent to use its trademarks or to register any domain name including the above-mentioned trademarks.

The Complainant adds that the details of the ownership of the disputed domain name registration are kept private by the Respondent, who conceals his identity on the published WhoIs, by use of a privacy service.

Referring to screen captures of the Complainant’s and the Respondent’s websites taken on January 12, 2022, which are annexed to the Complaint, the Complainant submits that a comparison of the website to which the disputed domain name formerly resolved at that time and the Complainant’s own website at “www.axa.cm”, shows that the Respondent’s website duplicates and mirrors the content of the Complainant’s website.

The Complainant submits that such use of a mirror website by the Respondent is not a legitimate use.

The Complainant adds that a more recent screen capture of the web location to which the disputed domain name resolved when this Complaint was made, shows that the disputed domain name is currently no longer exploited by the Respondent.

There is no evidence therefore that the Respondent is using the disputed domain name in connection with a *bona fide* offering of goods or services.

The Complainant then alleges that the disputed domain name was registered and is being used in bad faith arguing that it is obvious that the Respondent was aware of the Complainant’s AXA trademarks at the time that he acquired the disputed domain name.

The Complainant has submitted ample evidence to support its claim that the trademark AXA has become internationally famous and enjoys worldwide good reputation and the disputed domain name is solely composed of the Complainant’s AXA mark reproduced identically, without the addition of no other term.

It is argued therefore that the choice of the disputed domain name <axa.cm>, registered in January 8, 2022, was intended to mislead Internet users by making them believe that the disputed domain name is associated with the Complainant. The Complainant adds that due to its presence in 54 countries, the Complainant owns many country code Top-Level domain names to refer to these countries such as: <axa.it> for its activities in Italy, <axa.es> for its activities in Spain or <axa.de> for its activities in Germany and submits that therefore, the chances that Internet users will associate the disputed domain name with the Complainant are even greater because the Top-Level Domain extension “.cam” could be associated with the Complainant’s business in Cameroon operating at the domain name <axa.cm> with the country-code Top-Level Domain (“ccTLD”) “cm”.

The Complainant adds that the Respondent’s bad faith is also evident because the disputed domain name has resolved to a website <www.axa.cm> which duplicated the entire content of the Complainant’s site at “www.axa.cm” which is used to present the activities of the Complainant’s affiliate company in Cameroon, “AXA Cameroun”.

On this point, the Complainant refers to the decision of the panel in *Avon Products, Inc. v. Domains Administrator c/o Dynadot Privacy*, WIPO Case No. [D2013-2056](#), the panel held that: “The fact that Respondent’s website mirrors Complainant’s website eliminates any possible doubt. In view of

Respondent's default in this proceeding, this Panel draws an inference that Respondent's mirror website was intended to generate affiliate program revenue by misleading Internet users into "shopping" on Respondent's "www.shopavon.com" website instead of Complainant's "shop.avon.com" webpage. This is bad faith registration and use".

The Complainant further submits that the fact that the disputed domain name is currently not operated anymore does not prevent to conclude that the Respondent is acting in bad faith and adds that the Respondent chose to register the disputed domain name via a privacy proxy registration service supports a finding of bad faith registration by the Complainant. *Citing Fifth Third Bancorp v. Secure Whois Information Service*, WIPO Case No. [D2006-0696](#): "the use of a proxy registration service to avoid disclosing the name and coordinates of the real party in interest is also consistent with an inference of bad faith in registering and using the Domain Name, given the other evidence in this case of evasive and irresponsible conduct."

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy requires the Complainant to establish that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark 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.

### **A. Identical or Confusingly Similar**

The Complainant has provided convincing, uncontested evidence that it has rights in the AXA mark established by its ownership of the portfolio of service mark registrations described above and use of the mark in its insurance business in 54 countries, employing 153,000 people worldwide, serving 105 million customers and on its numerous websites.

The disputed domain name consists of the Complainant's mark in its entirety in combination with the Top Level Domain ("TLD") ".cam".

In the context of this proceeding and pursuant to the wide-established view of prior UDRP panels, that TLD extension ".cam" can be disregarded for purposes of the first element, and would be considered by Internet users as a necessary technical requirement for a domain name. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.11.

This Panel finds therefore that the disputed domain name is identical to the AXA mark in which the Complainant has rights and the Complainant has therefore succeeded in the first element of the test in Policy, paragraph 4(a)(i).

### **B. Rights or Legitimate Interests**

The Complainant has made out a *prima facie* case that the Respondent has no rights legitimate interests in the disputed domain name arguing that:-

- while the disputed domain name is identical to the Complainant's AXA mark, there is no relationship whatsoever between the Complainant and the Respondent;
- the Complainant has never licensed or otherwise permitted the Respondent to use its trademarks or to register any domain name including the AXA mark;

- the Respondent is concealing its identity because details of the ownership of the disputed domain name registration are kept private which indicates lack of rights and interests in the disputed domain name;
- screen captures of websites annexed to the Complaint show that website to which the disputed domain name formerly resolved is in fact a duplication of the Complainant's own website at "www.axa.cm";
- the use of the disputed domain name in this manner, creates the impression that the Respondent's website has an association with the Complainant's subsidiary in Cameroon;
- another screen capture annexed to the Complaint shows that the disputed domain name no longer resolves to an active website.

It is well established that once a respondent makes out a *prima facie* case that a complainant has no rights or legitimate interests in the domain name at issue, the burden of production shifts to the respondent to prove its rights or legitimate interests.

The Respondent has failed to discharge that burden and therefore this Panel must find that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant has therefore succeeded in the second element of the test in Policy, paragraph 4(a)(ii).

### **C. Registered and Used in Bad Faith**

The Complainant has shown that it has an extensive worldwide business and has established a substantial reputation in the use of the AXA mark on its products and services, with an established presence in 54 countries, employing 153,000 people worldwide, serving 105 million customers. The Complainant's registered trademark rights date back to as early as January 10, 1984, and predate the registration of the disputed domain name, which was registered on January 8, 2022.

Furthermore, the Complainant also has an established Internet presence with a large portfolio of domain names incorporating the AXA mark and websites. These websites include a reputation in Cameroon and the Complainant carries on business through an affiliate company in Cameroon, which seems to be the geographic area targeted by the Respondent by virtue of the impersonating nature of the content found at the website hosted at the disputed domain name, which mimics that of the Complainant's <axa.cm> ccTLD.

The AXA mark is a distinctive, coined word, and it is improbable that the registrant of the disputed domain name would have chosen and registered the disputed domain name, which consists solely of the mark in its entirety, without knowledge of the Complainant's business, and AXA mark.

On the balance of probabilities therefore, this Panel finds that the disputed domain name was registered in bad faith with the intention of targeting and taking predatory advantage of the AXA mark and Complainant's goodwill therein.

The evidence shows that the disputed domain name was used by the Respondent to establish a website, which mirrors the website of the Complainant's subsidiary in Cameroon.

A further screen capture shows that when this Complaint was filed, the disputed domain name no longer resolved to any active website.

This Panel finds that the passive holding of the disputed domain name in such circumstances constitutes use in bad faith for the purposes of the Policy because, the disputed domain name is identical to the Complainant's AXA mark; the Respondent has used the disputed domain name to establish a website that duplicated the Complainant's website which was clearly intended to confuse Internet users, and divert Internet traffic intended for the Complainant's website; and more recently the disputed domain name no longer resolves to any active website; the Respondent has not responded to the Complainant's *prima facie* case that he has no rights or legitimate interests in the disputed domain name; the Respondent is not permitted to use the AXA mark in the disputed domain name; and the Respondent has sought to conceal his identity on the Registrar's Whois by availing of a privacy service,

As this Panel has found that the disputed domain name was registered and is being used in bad faith, the Complainant has succeeded in the third element of the test in Policy, paragraph 4(a)(iii).

## **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.cam> be transferred to the Complainant.

*/James Bridgeman/*

**James Bridgeman**

Sole Panelist

Date: March 2, 2022