

## **ADMINISTRATIVE PANEL DECISION**

AXA SA v. Nico DAHOUE

Case No. D2022-1288

### **1. The Parties**

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

The Respondent is Nico DAHOUE, Benin.

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

The disputed domain name <axa-fnc.com> (the “Domain Name”) is registered with NameWeb BVBA (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 11, 2022. On April 11, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On April 12, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on April 12, 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 April 12, 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 26, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 16, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 17, 2022.

The Center appointed Willem J. H. Leppink as the sole panelist in this matter on May 23, 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**

Complainant is the holding company of AXA Group, an insurance company with roots going back to the 18<sup>th</sup> century. The AXA name was introduced in 1985. The AXA Group is headquartered in Paris, France. The AXA Group offers services to both individuals and companies in three major lines of businesses: property and casualty insurance, life insurance and savings, and asset management. The AXA Group is active in 54 countries worldwide and operates in diversified geographic regions and markets across in particular Europe, Africa, North America, and Asia-Pacific.

The Complainant is the owner of several trademark registrations, including, but not limited to the International Registration for the trademark AXA (word), with registration no. 490030 and registration date of December 5, 1984, and a priority date of Augustus 7, 1984, for services in classes 35, 36 and 39, designating, *inter alia*, Spain, Russian Federation, Benelux, Sudan, Egypt, and Switzerland. Moreover, Complainant is owner of the European Union trademark AXA (word), with registration no. 008772766 and registration date of September 7, 2012, for services in classes 35 and 36. The aforementioned trademark registrations will hereinafter also jointly be referred to as the "Trademark".

The Domain Name was registered on October 11, 2021, and does not resolve to any active website.

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

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

The Complainant contends the following:

The Domain Name is confusingly similar to the Trademark in which the Complainant has rights. The Domain Name consists of two elements, namely the Trademark followed by a dash and the letters "fnc". Whereas, the letters "fnc" do not have a specific meaning, the Trademark is sufficiently recognizable as the dominant element in the Domain Name.

The Respondent failed to prove its rights or legitimate interest in respect of the Domain Name. This is because the Respondent has not secured any rights or a license to use the Trademark. Nor is the Respondent in any way affiliated with the Complainant. Moreover, the Respondent is not commonly known by the Domain Name. In addition to this, the Domain Name is not being used in connection with a *bona fide* offering of goods and/or services. The Domain Name resolves to a website that is inactive and is, thus, passively held by the Respondent.

According to the Interbrand rankings of the year 2021, the Trademark was ranked 48<sup>th</sup> among the best global brands. Moreover, for nine consecutive years up until the year 2017 the Trademark was considered the leading global insurance brand by the *Best Global Brands* ranking.

Furthermore, the Domain Name has been registered and is being used in bad faith. The Respondent registered the Domain Name with prior knowledge of the Trademark in order to take predatory advantage of the Complainant's reputation. Additionally, the Domain Name is not being used for any genuine activities, considering the fact that the Domain Name resolves to an inactive website.

##### **B. Respondent**

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

## 6. Discussion and Findings

Pursuant to paragraph 4(a) of the Policy, the Complainant must prove each of the following three elements:

- (i) the 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 Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

### A. Identical or Confusingly Similar

The Complainant has sufficiently proven to have rights in the Trademark.

The Domain Name consists of the Trademark, followed by a dash and the term “fnc”.

As set out in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.8, the addition of other terms would not prevent a finding that a domain name is confusingly similar to the relevant mark for purposes of the first element.

The Trademark is clearly recognizable in the Domain Name and the addition of a dash followed by the term “fnc”, which as such does not have any particular meaning, does not prevent a finding of confusing similarity between the Domain Name and the Complainant’s Trademark.

Therefore, the Panel is satisfied that the first element of the Policy is met.

### B. Rights or Legitimate Interests

The Complainant in its Complaint and as set out above, has established a *prima facie* case that the Respondent has no rights or legitimate interest in the Domain Name.

The Panel could not find any evidence by referring to the types of evidence set forth in paragraph 4(c) of the Policy from which the Panel may conclude that the Respondent has rights or legitimate interests in the Domain Name, such as:

- (i) use or preparation to use the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services prior to notice of the dispute; or
- (ii) being commonly known by the Domain Name (as an individual, business or other organization) even if the Respondent has not acquired any trademark or service mark rights; or
- (iii) making 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.

The *prima facie* case presented by the Complainant is enough to shift the burden of production to the Respondent to demonstrate that it has rights or legitimate interests in the Domain Name.

In absence of a Response, the Respondent has not presented any evidence of any rights or legitimate interests it may have in regard to the Domain Name. There is also no evidence that Respondent has applied for or obtained any trademark rights related to “Axa” or that it is commonly known by the Domain Name.

The Respondent does not seem to make any use of the Domain Name as the Domain Name does not resolve to any website. Consequently, the Panel considers that the Respondent is not making use in connection with a *bona fide* offering of goods or services or for noncommercial or fair use purposes.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in relation to the Domain Name.

Therefore, the Panel is satisfied that the second element of the Policy is met.

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

The Panel finds that the Respondent has registered and used the Domain Name in bad faith and refers to its considerations under section 6.B. above.

Taking into consideration the evidence filed by the Complainant, the Panel finds that the Trademark and the Complainant's activities are well known throughout the world. The Complainant is owner of numerous trademarks and is active in 54 countries worldwide. The Complainant has also provided sufficient evidence showing the global notoriety of the Trademark.

Certainly lacking a Response, the Panel finds that there is no other plausible explanation than that the Respondent was aware of the existence of the Complainant's rights and activities at the time the Respondent registered the Domain Name.

The Complainant has established that there is also use in bad faith of the Domain Name, by bringing forward several circumstances. Lacking any plausible reason for the Respondent for using this Domain Name which includes the Trademark, the Panel finds that, on a balance, the Respondent is also using the Domain Name in bad faith, which is also supported by the following circumstances.

The Domain Name does not resolve to an active website. According to section 3.3 of the [WIPO Overview 3.0](#) the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding.

Furthermore, the Respondent's address that has been disclosed by the Registrar, seems to be a non-existing one.

Finally, although the lack of a formal or substantive response by the Respondent as such cannot by itself lead to the conclusion that there is registration and use in bad faith, the cumulative circumstances as outlined in the Decision are sufficient for the Panel to find that the registration and use of the Domain Name by the Respondent is in bad faith.

Therefore, the Panel is satisfied that the third element of the Policy is met.

### **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, <axa-fnc.com>, be transferred to the Complainant.

*/Willem J. H. Leppink/*

**Willem J. H. Leppink**

Sole Panelist

Date: June 3, 2022