

ADMINISTRATIVE PANEL DECISION

AXA SA v. ben nousse, LOGUA

Case No. D2022-1294

1. The Parties

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

Respondent is ben nousse, LOGUA, Brazil.

2. The Domain Name and Registrar

The disputed domain name <axaco-bk.com> 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 disputed domain name. On April 12, 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 Complainant on April 27, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to amend the Complaint. Complainant filed an amendment to the Complaint on April 27, 2022.

The Center verified that the Complaint together with the amended 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 May 2, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 22, 2022. Respondent did not submit any response. Accordingly, the Center notified the Parties of Respondent’s default on May 25, 2022.

The Center appointed Ingrīda Kariņa-Bērziņa as the sole panelist in this matter on June 7, 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 a global insurance and asset management concern with its headquarters in France. It has traded under the AXA mark since 1985 and is the proprietor of numerous registrations, including the following:

- International Trademark No. 490030 for AXA (word mark), registered on December 5, 1984 for services in classes 35, 36 and 39;
- European Union TradeMark 000373894 for AXA (device mark), registered on July 29, 1998 for services in classes 35 and 36.

Complainant has registered a number of domain names incorporating its AXA mark, including <axa.com>, <axa.fr>, <axa.net> and <axa.info.>

The disputed domain name was registered on September 16, 2021. It does not resolve to an active website.

5. Parties' Contentions

A. Complainant

Complainant's contentions may be summarized as follows:

Under the first element, Complainant states that it is the world's leading commercial property and casualty insurer with roots in the 18th century. Today, Complainant employs 153 000 worldwide and serves 105 million customers in 54 countries. The AXA mark was the leading global insurance brand for several years, and the mark was ranked among the best global brands in 2021. Complainant's AXA mark is highly distinctive and well-known and is reproduced in the disputed domain name. The additional letters "co" could mean "corporation" or "company." The letters "bk" do not have a specific meaning. Complainant's mark is the dominant element of the disputed domain name.

Under the second element, Complainant states that it has never licensed nor permitted Respondent to use its marks or to register any domain name including the marks. There is no relationship between the parties. Respondent has clearly adopted Complainant's mark, which has acquired a substantial reputation, for its own use. Respondent is not known by the disputed domain name, which is not in use in connection with a *bona fide* offering of goods or services. The disputed domain name is being passively held.

Under the third element, Complainant states that Respondent was aware of Complainant's AXA marks at the time that the disputed domain name was registered. The AXA mark has become internationally famous and enjoys a good reputation. It was deliberately chosen by Respondent to take predatory advantage of Complainant's reputation. The disputed domain name is being passively held in bad faith.

Complainant requests transfer of the disputed domain name.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 4(a) of the UDRP requires Complainant to make out all three of the following:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and

(ii) Respondent has no rights or legitimate interests in respect of the disputed domain name; and

(iii) Respondent has registered and is using the disputed domain name in bad faith.

Under paragraph 15(a) of the Rules, “[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

A. Identical or Confusingly Similar

Complainant has provided evidence, not challenged by Respondent, establishing that it has trademark rights in the AXA mark through registrations in numerous jurisdictions. Complainant thereby satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.2.

In comparing Complainant’s AXA mark with the disputed domain name, the Panel finds that the disputed domain name is confusingly similar to it. The disputed domain name comprises Complainant’s AXA mark in its entirety, followed by the letters “co-bk”. It is the consensus view of UDRP panels that, where a domain name incorporates the entirety of a trademark, the domain name will normally be considered confusingly similar to that mark. Moreover, 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. See [WIPO Overview 3.0](#), sections 1.7 and 1.8.

It is the well-established view of UDRP panels that the addition of the generic Top-Level Domain (“gTLD”), in this case, “.com”, to a domain name is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test (see [WIPO Overview 3.0](#), section 1.11.1, and cases cited thereunder).

Accordingly, the Panel finds that Complainant has established the first element under paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

The circumstances stated in the Complaint and evidence in support set forth in the annexes thereto indicate that Respondent has no rights or legitimate interests in the disputed domain name.

The Panel finds that the evidence submitted by Complainant establishes a *prima facie* case that Respondent has no rights or legitimate interests in the disputed domain name. Respondent is not authorized by Complainant and has no rights in the AXA mark. The disputed domain name reflects Complainant’s distinctive and well-established mark.

Pursuant to [WIPO Overview 3.0](#), section 2.1, and cases thereunder, where Complainant makes out a *prima facie* case that Respondent lacks rights or legitimate interests, the burden of production on this element shifts to Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

Respondent has not provided any evidence of rights or legitimate interests. There is no evidence that Respondent is commonly known by the disputed domain name, nor that there are any circumstances or activities that would establish Respondent’s rights therein. The disputed domain name does not resolve to an active website. There is no evidence that the disputed domain name has been registered or is being used for legitimate noncommercial purposes. There is no explanation as to why Respondent chose the disputed domain name incorporating Complainant’s well-established mark, and no explanation is self-evident from the case file. See [WIPO Overview 3.0](#), section 2.1, and cases cited thereunder.

Accordingly, the Panel finds that Complainant has established the second element under paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

Pursuant to Paragraph 4(b) of the Policy, the Panel finds that Complainant has demonstrated Respondent's bad faith registration and use of the disputed domain name. Complainant's rights in its AXA mark predate the registration of the disputed domain name by decades. The disputed domain name reflects Complainant's AXA mark together with the letters "co-bk." The Panel finds that, by registering such a domain name, Respondent likely had Complainant's distinctive and well-established AXA mark in mind, and probably intended to take unfair advantage of the similarity between the disputed domain name and the Complainant's AXA mark.

The Panel further finds that Respondent has, on balance, demonstrated bad faith by passive holding of the disputed domain name. Such a finding is consistent with previous UDRP decisions, such as *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#). See also [WIPO Overview 3.0](#), section 3.3. In particular, the disputed domain name contains Complainant's registered AXA mark. Respondent has failed to provide any evidence of a connection to a legitimate business related to the AXA mark. Respondent has failed to provide any evidence of actual or contemplated good-faith use of the disputed domain name, and no alternative explanation is self-evident from the case file to the reason why Respondent has adopted the disputed domain name.

The Panel therefore finds that Complainant has established the third element under paragraph 4(a) 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 <axaco-bk.com> be transferred to Complainant.

/Ingrīda Kariņa-Bērziņa/

Ingrīda Kariņa-Bērziņa

Sole Panelist

Date: June 14, 2022