

ADMINISTRATIVE PANEL DECISION

AXA SA v. Jay Vibes
Case No. D2023-0550

1. The Parties

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

The Respondent is Jay Vibes, United States of America.

2. The Domain Name and Registrar

The disputed domain name <axa-assistance.com> (the “Domain Name”) is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 7, 2023. On February 7, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On February 8, 2023, the Registrar transmitted by email to the Center its verification response confirming that the 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 the Respondent of the Complaint, and the proceedings commenced on February 9, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 1, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 2, 2023.

The Center appointed Gregor Vos as the sole panelist in this matter on March 8, 2023. 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 is part of the AXA Group and is active in the field of *inter alia* insurance services and asset management. The Complainant introduced its current tradename in 1985. The Complainant is currently present in over 50 countries and employs more than 110,000 people worldwide.

The Complainant is the owner of *inter alia* the following European Union (“EU”) and International trademark registrations (the “Trademarks”):

- EU trademark registration No. 008772766 for AXA registered on September 7, 2012;
- International trademark registration No. 490030 for AXA registered on December 5, 1984, with designation of *inter alia* Spain, Italy, Russian Federation, the Benelux and Switzerland.

Further, it is undisputed that the Complainant is the holder of *inter alia* the following domain names:

- <axa.com>;
- <axa.fr>;
- <axa.net>; and
- <axa.info>.

The Domain Name was registered on October 11, 2022. Currently, the Domain Name does not resolve to an active website.

5. Parties’ Contentions

A. Complainant

With the Complaint, the Complainant seeks that the Domain Name is transferred to the Complainant. The Complaint is based on the following factual and legal grounds: the Domain Name is identical or confusingly similar to the Trademarks of the Complainant, the Respondent has no rights or legitimate interests in the Domain Name and the Domain Name has been registered and is being used in bad faith.

Firstly, according to the Complainant, the Domain Name is confusingly similar to the Trademarks. The well-known Trademarks of the Complainant are incorporated in their entirety in the Domain Name with the mere addition of the generic element “assistance”. Consumers may therefore believe that the Domain Name is an official website of the Complainant, which is reinforced by the fact that the Complainant is the owner of several domain names in which the term “assistance” is incorporated.

Secondly, according to the Complainant, the Respondent has no rights or legitimate interests in the Domain Name. The Complainant has never licensed or otherwise permitted the Respondent to use the Trademarks in the Domain Name. Further, the Respondent has not been commonly known by the Domain Name and the Domain Name is not being used in connection with a *bona fide* offering of goods or services.

Lastly, according to the Complainant, the Respondent has registered and uses the Domain Name in bad faith. The Respondent deliberately reproduces the well-known Trademarks in the Domain Name. Further, the passive holding of the Domain Name does not preclude a finding of use in bad faith, since the Trademarks have a strong reputation, the Domain Name leads to a website that is not currently accessible and the Complainant did not receive any reply to its attempts to amicably solve this matter.

B. Respondent

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

6. Discussion and Findings

In view of the lack of a response filed by the Respondent as required under paragraph 5 of the Rules, this proceeding has proceeded by way of default. Hence, under paragraphs 5(f), 14(a) and 15(a) of the Rules, the Panel is directed to decide this administrative proceeding on the basis of the Complainant's undisputed factual presentations.

For the Complainant to succeed, it must prove, within the meaning of paragraph 4(a) of the Policy and on the balance of probabilities that:

- i. the Domain Name is identical or confusingly similar to a trademark or a 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.

Only if all three elements have been fulfilled, the Panel is able to grant the remedies requested by the Complainant. The Panel will deal with each of the requirements in turn.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the Domain Name is (i) identical or confusingly similar to a trademark or service mark, (ii) in which the Complainant has rights.

With respect to having rights pursuant to paragraph 4(a)(i) of the Policy, it is noted that the Complainant is registered as the owner of the Trademarks. Consequently, the Panel finds that the Complainant has rights in the Trademarks.

With regard to the assessment of identity or confusing similarity of the Domain Name with the Trademarks, it is generally accepted that this test involves a reasoned but relatively straightforward comparison between the Trademarks and the Domain Name (see section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). In cases where a domain name incorporates the entirety of a trademark, the domain name will normally be considered confusingly similar to that mark (see section 1.7 of the [WIPO Overview 3.0](#)).

In the present case, the Trademarks are incorporated in their entirety in the Domain Name. The addition of the generic Top-Level Domain ("gTLD") ".com" is viewed as a standard registration requirement, and may as such be disregarded by the Panel (see section 1.11.1 of the [WIPO Overview 3.0](#)). Furthermore, the Panel finds that the misspelled term "assistance" does not prevent a finding of confusing similarity.

Consequently, the Panel finds that the requirement under paragraph 4(a)(i) of the Policy has been satisfied.

B. Rights or Legitimate Interests

The second requirement the Complainant must prove is that the Respondent has no rights or legitimate interests in the Domain Name. The onus of proving this requirement, like each element, falls on the Complainant. Given the difficulty in proving a negative, however, it is usually sufficient for a complainant to make out a *prima facie* case that a respondent lacks rights or legitimate interests. If a complainant does establish a *prima facie* case, the burden of production shifts to the respondent (see, e.g. [WIPO Overview 3.0](#), section 2.1; *Sanofi v. Cimpress Schweiz GmbH*, WIPO Case No. [D2017-0522](#)).

Paragraph 4(c) of the Policy lists three non-limitative examples of instances in which a respondent may establish rights or legitimate interests in the disputed domain name.

The Complainant has substantiated that none of these circumstances apply in this case. By defaulting, the Respondent has failed to address the *prima facie* case thus established by the Complainant. Furthermore, based on the record before it, the Panel does not see an indication that any of the circumstances of paragraph 4(c) of the Policy is present.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name. Paragraph 4(a)(ii) is thereby fulfilled.

C. Registered and Used in Bad Faith

Under paragraph 4(a)(iii) of the Policy, a complainant must show that the disputed domain name has been registered and is being used in bad faith. Paragraph 4(b) of the Policy lists four non-limitative circumstances which may be considered as evidence of registration and use in bad faith of a domain name.

In the present case, the Trademarks are registered by the Complainant and have been used for many years. The Complainant's rights to the Trademarks predate the registration date of the Domain Name. In light of the well-known character of the Trademarks that is confirmed by the record before it and by earlier UDRP panels (see *e.g.* *AXA SA v. Frank Van*, WIPO Case No. [D2014-0863](#)), the Panel agrees with the Complainant that it is not conceivable that the Respondent chose the Domain Name without knowledge of the Complainant's activities and its Trademarks under which the Complainant is doing business.

Further, even if the current inactive page is taken into account, it is generally accepted by UDRP panels that the non-use of a domain name does not prevent a finding of bad faith (section 3.3 of the [WIPO Overview 3.0](#)). In light of the well-known character of the Trademarks, the lack of any rights or legitimate interest in the Domain Name by the Respondent, and in the absence of any conceivable good faith use of the Domain Name, the Panel finds from the present circumstances that the Respondent has intentionally sought to take unfair advantage of or otherwise abuse the Trademarks.

Furthermore, the Panel finds that the use of the Trademarks in the Domain Name signals an intention on the part of the Respondent to confuse Internet users into thinking that the Domain Name is connected to the Complainant (section 3.2.1 of the [WIPO Overview 3.0](#)). This is reinforced by the fact the misspelled term "assisttance" is incorporated in the Domain Name, which term is used by the Complainant in several of its domain names as well.

Therefore, the Panel finds that the Domain Name has been registered and is being used in bad faith and that the third element of paragraph 4(a)(iii) of the Policy is fulfilled.

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-assisttance.com> be transferred to the Complainant.

/Gregor Vos/

Gregor Vos

Sole Panelist

Date: March 22, 2023