

## **ADMINISTRATIVE PANEL DECISION**

**AXA SA v. Michael Nava, Domain Nerdz LLC**  
**Case No. DCO2023-0022**

### **1. The Parties**

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

The Respondent is Michael Nava, Domain Nerdz LLC, United States of America.

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

The disputed domain name <axaxl.co> is registered with Sav.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 6, 2023. On March 6, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 (“PrivacyProtection.com, LLC”) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 7, 2023, 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 March 7, 2023.

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 March 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 3, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 5, 2023.

The Center appointed Mihaela Maravela as the sole panelist in this matter on April 13, 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

According to information in the Complaint, the Complainant is a world leader in insurance, saving and asset management, serving 95 million customers. The Complainant has been trading under the name AXA since 1985 and in 2018 it acquired the XL group. The Complainant's group is present in 50 countries and employs 110,447 people worldwide. The Complainant is listed on the Paris Stock Exchange since 1988 and on the New York Stock Exchange since 1996. In 2022, the Complainant's trademark AXA was ranked 43th among the 100 best global brands according to the Interbrand ranking.

The Complainant has registered various trademarks consisting of AXA or AXA XL, including the International trademark registration for AXA No. 490030 registered on December 5, 1984, duly renewed and the European Union trademark registration for AXA XL no. 017955301 registered as of September 13, 2018. The Complainant has registered various domain names consisting of AXA or AXA XL, including the domain name <axaxl.com> that it uses as a website for offering AXA XL services.

The disputed domain name was registered on September 16, 2022. The Complainant has provided evidence that the disputed domain name is offered for sale on a third-party platform for USD 1,988.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant argues that the disputed domain name reproduces identically the trademark AXA which has no particular meaning and is therefore highly distinctive. Also, the Complainant's trademark AXA is well-known around the world in the field of insurance and financial services. Moreover, the disputed domain name is reproducing identically the trademark AXA XL of the Complainant, which was created after the acquisition of the XL insurance group by the Complainant in 2018 and is very famous as it's the world's number one commercial property and casualty insurer.

As regards the second element, the Complainant argues that it has never licensed or otherwise permitted the Respondent to use its trademarks or to register any domain name including the Complainant's trademarks. The disputed domain name is not used in connection with a *bona fide* offering of goods or services. The disputed domain name is passively held as it leads to a page which allows to buy the disputed domain name. Moreover, the Respondent has not been commonly known by the disputed domain name or even associated with the name AXA.

With respect to the third element, the Complainant argues that the Respondent was aware of the Complainant's AXA trademarks at the time that he registered the disputed domain name due to the undeniable reputation of AXA and its trademarks. In what concerns the use, the Complainant argues that the passive holding of the disputed domain name does not prevent a finding of bad faith in this case given that the Complainant's trademarks have strong reputation and are widely known, the fact that the Respondent is putting the disputed domain name for sale only few months after having registered it, the fact that the Respondent did not respond to any of the three letters of formal notice sent by the Complainant and also the use of a privacy proxy service for the registration of the disputed domain name.

##### B. Respondent

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

## 6. Discussion and Findings

### 6.1. Preliminary Matters

No communication has been received from the Respondent in this case. However, given that the Complaint was sent to the relevant email and postal addresses disclosed by the Registrar, the Panel considers that this satisfies the requirement in paragraph 2(a) of the UDRP Rules to “employ reasonably available means calculated to achieve actual notice”. Accordingly, the Panel considers it can proceed to determine the Complaint based on the statements and documents submitted by the Complainant as per paragraph 15(a) of the Rules and to draw inferences from the Respondents’ failure to file any Response. While the Respondent’s failure to file a Response does not automatically result in a decision in favor of the Complainant, the Panel may draw appropriate inferences from the Respondents’ default.

The applicable standard of proof in UDRP cases is the “balance of probabilities” or “preponderance of the evidence”, and the Panel can draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)).

### 6.2. Substantive Matters

Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following elements:

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

#### A. Identical or Confusingly Similar

The Complainant has proved its rights over the AXA and AXA XL trademarks. The disputed domain name consists of the AXA XL trademark in its entirety, in addition to the country-code Top-Level Domain (“ccTLD”) “.co”. Also, the trademark AXA is reproduced in its entirety in the disputed domain names. The addition of “xl” does not prevent a finding of confusing similarity with the Complainant’s AXA trademarks. The fact that a domain name wholly incorporates a complainant’s trademark is sufficient to establish identity or confusing similarity for the purpose of the Policy, despite the addition of other words to such trademarks. The addition of another term (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity. See section 1.8 of the [WIPO Overview 3.0](#).

The ccTLD is typically ignored when assessing whether a domain name is identical or confusing similar to a trademark. See section 1.11 of the [WIPO Overview 3.0](#).

This Panel concludes that the disputed domain name is identical or confusingly similar to the Complainant’s trademarks and therefore finds that the requirement of paragraph 4(a)(i) of the Policy is satisfied.

#### B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

As established by previous UDRP panels, it is sufficient for the Complainant to make a *prima facie* case demonstrating that the Respondent has no rights or legitimate interests in the disputed domain name in order to place the burden of production on the Respondent (see section 2.1 of the [WIPO Overview 3.0](#)).

In the present case, the Complainant has established a *prima facie* case that it holds rights over the trademarks AXA and AXA XL and claims that the Respondent was not authorized by the Complainant to register the disputed domain name.

There is no evidence that the Respondent is using the disputed domain name in connection with a *bona fide* offering of goods or services, nor does the Respondent appear to engage in any legitimate noncommercial or fair use of the disputed domain name within the meaning of paragraphs 4(c)(i) and (iii) of the Policy. On the contrary, as the Complainant demonstrated, the disputed domain name resolves to a page where it is offered for sale, which in the circumstances of the case cannot amount to rights or legitimate interests in the disputed domain name. Furthermore, the nature of the disputed domain name, comprising the Complainant's trademarks in their entirety, carries a risk of implied affiliation and cannot constitute a fair use as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See section 2.5.1 of the [WIPO Overview 3.0](#).

Also, there is no evidence that the Respondent is commonly known by the disputed domain name within the meaning of paragraph 4(c)(ii) of the Policy.

The Respondent has not replied to the Complainant's contentions, claiming any rights or legitimate interests in the disputed domain name. With the evidence on file, the Panel finds that the requirement of paragraph 4(a)(ii) of the Policy is satisfied.

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

To fulfill the third requirement of the Policy, the Complainant must prove that the disputed domain name was registered and is being used in bad faith.

According to the un rebutted assertions of the Complainant, its AXA and AXA XL trademarks were widely used in commerce well before the registration of the disputed domain name. The Respondent provided no explanations for why he registered the disputed domain name. Under these circumstances, it is most likely that the Respondent was aware of the Complainant's trademarks at the registration date of the disputed domain name. An additional fact is the similarity between the disputed domain name and the Complainant's domain name <axaxl.com>.

The Complainant has proved that the disputed domain name is offered for sale. This, in view of the finding that the Respondent has no rights to or legitimate interest in the disputed domain name, given also the distinctiveness of the Complainant's trademarks and the confusing similarity with the Complainant's trademarks, as well as the failure of the Respondent to present a credible rationale for registering the disputed domain name appears to signal an intention on the part of the Respondent to derive commercial gain from the resale of the disputed domain name riding on the reputation of the Complainant's trademarks. The circumstances referred to in paragraph 4(b)(i) of the Policy are applicable.

Moreover, the Respondent has not formally participated in these proceedings and has failed to rebut the Complainant's contentions and to provide any evidence of actual or contemplated good-faith use and indeed none would seem plausible. The Respondent also engaged the use of a privacy services to mask its contact details on the publicly-available WhoIs which further supports the Panel's bad faith finding.

In the Panel's view, the circumstances of the case represent evidence of registration and use in bad faith of the disputed domain name. The Respondent failed to bring evidence as to the contrary. Consequently, the Panel concludes that the condition 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 disputed domain name, <axaxl.co> be transferred to the Complainant.

*/Mihaela Maravela/*

**Mihaela Maravela**

Sole Panelist

Date: April 20, 2023