

## **DISPUTE RESOLUTION SERVICE**

**D00022727**

### **Decision of Independent Expert**

**AXA SA**

and

**Privacy Department**

#### **1. The Parties:**

Complainant: AXA SA  
25, avenue Matignon  
Paris  
75008  
France

Respondent: Privacy Department  
Klapparstigur 7  
Reykjavik  
101  
Iceland

#### **2. The Domain Name:**

clientaxa.co.uk (“the Domain Name”)

#### **3. Procedural History:**

I can confirm that I am independent of each of the parties. To the best of my knowledge and belief, there are no facts or circumstances, past or present, or that could arise in the foreseeable future, that need be disclosed as they might be of a

such a nature as to call in to question my independence in the eyes of one or both of the parties.

The procedural history is as follows:

15 June 2020 09:21 Dispute received  
17 June 2020 09:55 Complaint validated  
17 June 2020 10:10 Notification of complaint sent to parties  
06 July 2020 02:30 Response reminder sent  
09 July 2020 09:31 No Response Received  
09 July 2020 09:31 Notification of no response sent to parties  
17 July 2020 11:11 Expert decision payment received

#### **4. Factual Background**

The Complainant is the holding company of the well-known AXA insurance group, which has traded under the name “AXA” since 1985. The group has a presence in 57 countries and employs some 160,000 people worldwide, with around 10,000 employees and 10 million customers in the UK.

The Complainant owns many registered trade marks for “AXA” worldwide including UK Trade Mark No. 1272911, filed on 1 October 1986, in classes 35 and 36.

The Domain Name was registered on 16 April 2020.

On 6 May 2020, the Domain Name was used in the sender email address of a “phishing” email that impersonated the Complainant including by use the name and address of one of the Complainant’s UK subsidiaries. The email sought to elicit identity documents from a customer of the Complainant.

The Complainant sent cease and desist emails to the Respondent on 11, 19 and 27 May 2020. There was no reply.

#### **5. Parties’ Contentions**

##### Complaint

The following is a summary of the Complaint:

The Domain Name is confusingly similar to the Complainant’s highly distinctive trade mark, which is incorporated in its entirety into the Domain Name. The addition of the generic term “client” does not sufficiently distinguish the Domain Name from the Complainant’s mark. On the contrary, it increases the similarity and likelihood of

confusion as this term can be added to any trade mark to form a domain name purportedly dedicated to that company's clients.

The Domain Name is an abusive registration.

The Complainant has not authorised the Respondent to use its trade mark.

The Respondent has used privacy facilities to hide its real identity.

The Respondent cannot deny prior knowledge of the Complainant's trade mark. There is no legitimate reason for the Respondent to choose the Domain Name, which is exclusively referable to the Complainant. The Respondent's only purpose is to take advantage of the Complainant's trade mark.

Furthermore, the Respondent has used the Domain Name for the purpose of phishing emails impersonating the Complainant.

The Respondent has not responded to the Complainant's cease and desist emails.

There is a presumption of abusive registration as there have been four DRS decisions in the previous two years against the same Respondent, all relating to domain names in the field of finance and two of which relate to the Complainant – see DRS 21361 (<admsecurities.co.uk>), DRS 21441 (<trowprice.org.uk>), DRS 22450 (<axavp.co.uk>) and DRS 22589 (<axavp.org.uk>).

### Response

The Respondent did not file a Response.

## **6. Discussions and Findings**

To succeed, the Complainant has to prove in accordance with paragraph 2 of the DRS Policy on the balance of probabilities, first, that it has "Rights" (as defined in paragraph 1 of the DRS Policy) in respect of a name or mark identical or similar to the Domain Name and, second, that the Domain Name, in the hands of the Respondent, is an "Abusive Registration" (as defined in paragraph 1 of the DRS Policy).

### Complainant's Rights

The meaning of "Rights" is defined in the DRS Policy as follows:

*"Rights means rights enforceable by the Complainant, whether under English law or otherwise, and may include rights in descriptive terms which have acquired a secondary meaning"*

The Complainant has established Rights in the name “AXA” by virtue of its registered trade marks as well as unregistered rights arising from its extensive trading activities under that name.

The Domain Name is dominated by the Complainant’s distinctive trade mark, differing only by addition of the descriptive term “client”.

Accordingly, I am satisfied that the Complainant has established Rights in a name or mark which is similar to the Domain Name.

### Abusive Registration

Does the Domain Name constitute an Abusive Registration in the hands of the Respondent? Paragraph 1 of the DRS Policy defines “Abusive Registration” as a domain name which either:

- “i. was registered or otherwise acquired in a manner which, at the time when the registration or acquisition took place, took unfair advantage of or was unfairly detrimental to the Complainant's Rights; OR*
- ii. has been used in a manner which took unfair advantage of or was unfairly detrimental to the Complainant’s Rights.”*

Given the use of the Domain Name for phishing emails that impersonated the Complainant and were designed to defraud its customers, I have little difficulty in concluding that the Domain Name was registered in a manner which took unfair advantage of or was unfairly detrimental to the Complainant's Rights.

## **7. Decision**

I find that the Complainant has Rights in a mark which is similar to the Domain Name and that the Domain Name is, in the hands of the Respondent, an Abusive Registration. I therefore direct that the Domain Name <clientaxa.co.uk> be transferred to the Complainant.

**Signed: Adam Taylor**

**Dated: 28 July 2020**