

ADMINISTRATIVE PANEL DECISION

H. Lundbeck A/S v. afonso jide
Case No. D2023-3027

1. The Parties

The Complainant is H. Lundbeck A/S, Denmark, represented by Zacco Denmark A/S, Denmark.

The Respondent is afonso jide, United States of America (the “US”).

2. The Domain Name and Registrar

The disputed domain name <luhbeck.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 14, 2023. On July 14, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 14, 2023, 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 (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 19, 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 July 19, 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 July 24, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 13, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 17, 2023.

The Center appointed Taras Kyslyy as the sole panelist in this matter on August 21, 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 was founded in 1915 and is now an international pharmaceutical company engaged in the research, development, production, marketing, and sale of pharmaceuticals across the world. The Complainant's products are targeted at disorders such as depression and anxiety, psychotic disorders, epilepsy, Huntington's, Alzheimer's, and Parkinson's diseases. In 2022, the Complainant's revenue was USD 2.7 billion. The Complainant employs more than 5,000 people worldwide.

The trademark LUNDBECK is registered in more than 100 countries around the world, including for instance the US trademark registration No. 1147485, registered on January 20, 2015.

The official website of the Complainant is at "www.lundbeck.com".

The disputed domain name was registered on July 6, 2023, and does not resolve to any active website. The disputed domain name was used for a phishing scam in which the Respondent passes himself off as the Vice President of the Complainant, and sends emails to genuine employees of the Complainant in which he orders them to initiate a money-transfer.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is identical or confusingly similar to the Complainant's trademark, since it is an obvious and intentional misspelling of the Complainant's trademark with the letter "n" in the trademark substituted by an "h" with similar appearance in the disputed domain name.

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent has not received any license or consent, express or implied, to use the Complainant's trademark in domain names or in any other manner from the Complainant, nor has the Complainant acquiesced in any way to such use or application by the Respondent. The Respondent did not use the disputed domain name as a trademark, company name, business or trade name prior to the registration of the disputed domain name, nor is the Respondent otherwise commonly known by the disputed domain name. The Respondent has no legitimate interest in the disputed domain name, since it is thus used for a phishing scam.

The disputed domain name was registered and is being used in bad faith, since it is used for a phishing scam, and thus the Respondent had positive knowledge as to the existence of the Complainant and of the Complainant's trademark at the time the Respondent registered the disputed domain name.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between

the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

According to section 1.9 of the [WIPO Overview 3.0](#), a domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element. The Panel considers the disputed domain name consists of an intentional misspelling of the Complainant's trademark, thus it is confusingly similar.

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. In the present case, the Panel finds that the provided copy of an email sent by the Respondent using an email address associated with the disputed domain name and falsely pretending to be by the Complainant's official, ordering the subordinated Complainant's employees for a money transfer, prove the use of the disputed domain name for illegal activity and thus cannot confer rights or legitimate interests on the Respondent.

The available evidence do not confirm that the Respondent is commonly known by the disputed domain name, which could demonstrate its rights or legitimate interests (see, e.g., *World Natural Bodybuilding Federation, Inc. v. Daniel Jones, TheDotCafe*, WIPO Case No. [D2008-0642](#)).

The Complainant did not license or otherwise agree for use of its prior registered trademarks by the Respondent, thus no actual or contemplated *bona fide* or legitimate use of the disputed domain name could be reasonably claimed (see, e.g., *Sportswear Company S.P.A. v. Tang Hong*, WIPO Case No. [D2014-1875](#)).

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

According to section 3.2.2 of the [WIPO Overview 3.0](#), further factors including the nature of the domain name, the chosen Top-Level Domain, any use of the domain name, or any respondent pattern, may obviate a respondent's claim not to have been aware of the complainant's mark. In the present case, the Respondent shortly after registration of the disputed domain name being an intentional misspelling of the Complainant's trademark, sent a phishing scam email, falsely pretending to be by the Complainant's official. The Panel finds that the nature of the disputed domain name and its use confirms the Respondent knew of the Complainant's prior trademark rights, which confirms the bad faith.

According to section 3.4 of the [WIPO Overview 3.0](#), panels have held that the use of a domain name for purposes other than to host a website may constitute bad faith. Such purposes include sending email, phishing, identity theft, or malware distribution. The Panel finds that in the present case use of the disputed domain name to send at least one phishing scam email constitutes bad faith.

Based on the available record, the Panel finds the third element of the Policy has been established.

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, <luhdbeck.com>, be transferred to the Complainant.

/Taras Kyslyy/

Taras Kyslyy

Sole Panelist

Date: September 4, 2023