

ADMINISTRATIVE PANEL DECISION

H. Lundbeck A/S v. Billi Villi
Case No. D2024-2540

1. The Parties

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

The Respondent is Billi Villi, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <lexapro24h.top> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 21, 2024. On June 21, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 21, 2024, 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 June 28, 2024, 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 2, 2024.

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 4, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 24, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 25, 2024.

The Center appointed Alvaro Loureiro Oliveira as the sole panelist in this matter on July 30, 2024. 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 H. Lundbeck A/S, a company incorporated in Denmark in 1915. It is an international pharmaceutical company focused on psychiatry and neurology and currently is one of the world's leading companies in this field. In 2023, it reported revenues of USD 2.89 billion and employed over 5,500 people globally.

The Complainant markets pharmaceuticals for brain disorders under the brands like LEXAPRO, REXULTI, BRINTELLIX, and ABILIFY MAINTENA. The Complainant has exclusive rights in the LEXAPRO marks. The Complainant is the owner of over 100 registrations for the mark LEXAPRO worldwide, among which is worth mentioning the following:

- United States Registration Number 2684432 for LEXAPRO, registered on February 4, 2003.

The Complainant also holds several domain name registrations that contain the LEXAPRO trademark including <lexapro.com>.

The disputed domain name was registered on April 11, 2024. The website under the disputed domain name resolved to a website headed "Trusted Pharmacy" that supposedly contains information on the Lexapro product and its effects. The website also contains links to websites that display different uses of the Lexapro product and offer it for sale.

5. Parties' Contentions

A. Complainant

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

Notably, the Complainant contends that the disputed domain name is confusingly similar to the Complainant's mark registered and used worldwide.

The Complainant alleges that the Respondent does not have rights or legitimate interests in the disputed domain name.

The Complainant contends that the disputed domain name was registered and is being used in bad faith.

The Complainant alleges that the Respondent is using the disputed domain name in connection with a website that promotes unreliable information on the Lexapro product and also provides links to other websites purport to offer various doses of the Lexapro product for sale.

Hence the Complainant concludes that the disputed domain name was registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

The Policy, in its paragraph 4(a), determines that three elements must be presented and duly proven by a Complainant to obtain relief. These elements are:

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

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.

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

Notably, the Complainant contends that the disputed domain name is confusingly similar to the LEXAPRO trademark, as it is entirely incorporated in the disputed domain name.

The Complainant has presented consistent evidence of ownership of the trademark LEXAPRO in jurisdictions throughout the world, by presenting several trademark registrations for it, as well as comprehensive evidence of the use of the trademark.

The use of the trademark LEXAPRO with the additional term "24h" in the disputed domain name does not prevent a finding of confusing similarity with the trademark. Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms would not prevent a finding of confusing similarity under the first element. [WIPO Overview 3.0](#), section 1.8.

Given the above, the Panel concludes that the disputed domain name is confusingly similar to the registered trademark of the Complainant, and consequently, the first element of the Policy has been established.

B. Rights or Legitimate Interests

Given the clear evidence that trademark LEXAPRO is registered in the Complainant's name in several jurisdictions; considering that this trademark is widely known as identifying the Complainant's products, and that the Complainant has not licensed this to the Respondent, the Panel finds that the Complainant has established a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name.

In the absence of a Response, the Respondent has not rebutted such prima facie case.

Furthermore, the fact that the disputed domain name consists of the Complainant's trademark along with the term "24h" carries a risk of implied affiliation, potentially conveying to unsuspecting Internet users the false belief that any website related thereto would be associated or endorsed with the Complainant's official products and services. See [WIPO Overview 3.0](#), section 2.5.1.

The Respondent is not using the disputed domain names for a bona fide offering of goods or services, nor for a legitimate noncommercial or fair use of the disputed domain names – the Respondent was redirecting the disputed domain name to a website that promotes unreliable information on the Lexapro product and also provides links to other websites purport to offer various doses of the Lexapro product for sale.

As to paragraph 4(c)(i) of the Policy, and as further discussed in section 6C below, the Panel considers that the Respondent has used the disputed domain name to intentionally attempt to attract, confuse and profit from Internet users seeking the Complainant's goods. Such use of the disputed domain name could not be said to be bona fide.

The Panel, thus, finds for the Complainant under the second element of the Policy.

C. Registered and Used in Bad Faith

Given the circumstances of this case, the facts outlined in sections A and B above can also evidence the Respondent's bad faith in the registration and use of the disputed domain name.

The Respondent intended to give an overall impression that the disputed domain name is associated with the Complainant, and the Panel accepts that the disputed domain name is likely intended to capitalize on the fame and goodwill of the Complainant's trademark. Besides, the disputed domain name reproduces the Complainant's distinctive mark LEXAPRO with the addition of the term "24h".

The composition of the disputed domain name points towards the Respondent's likely intent to give an impression that the disputed domain name is associated with the Complainant or to confuse Internet users. In the absence of any reasonable explanation for the selection of the disputed domain name by the Respondent, and in the circumstances of this case, the Panel finds that it is more likely than not, that the disputed domain name has been registered to take advantage due to the value of the trademark owned by the Complainant.

According to the evidence provided in the Complaint, and unrefuted by the Respondent, the disputed domain name was used in connection with a website that provides non-scientifically based information on the Lexapro product. In addition, the referred website provided links to other sites selling various doses of the Lexapro product.

Paragraph 4(b)(iv) of the Policy provides that the use of a domain name to intentionally attempt "to attract, for commercial gain, Internet users to [the respondent's] website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [the respondent's] website or location or of a product or service on [the respondent's] website or location" is evidence of registration and use in bad faith.

Here, the Panel notes the distinctive and well-known nature of the Complainant's trademark LEXAPRO, the composition of the disputed domain name, and the confusing use incorporating the Complainant's trademark LEXAPRO, support a finding of bad faith.

In the totality of the circumstances, the Panel finds the Respondent has registered and is using the disputed domain name in bad faith.

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 <lexapro24h.top> be transferred to the Complainant.

/Alvaro Loureiro Oliveira/

Alvaro Loureiro Oliveira

Sole Panelist

Date: August 14, 2024