

## **ADMINISTRATIVE PANEL DECISION**

H. Lundbeck A/S v. Jose Quiroz  
Case No. D2024-0872

### **1. The Parties**

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

The Respondent is Jose Quiroz, United States of America (“U.S.”).

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

The disputed domain name <lundbeck-saudi.com> is registered with Network Solutions, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 28, 2024. On February 29, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 2, 2024, 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”).

On March 6, 2024, the Center issued a notice to the Complainant regarding an error in the domain name reflected in the caption of the Complaint. The Complainant submitted an amended version of the Complaint on March 7, 2024.

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on March 7, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 27, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 28, 2024.

The Center appointed Francine Tan as the sole panelist in this matter on April 8, 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 states that it is one of the world's leading pharmaceutical companies engaged in the research, development, production, marketing, and sale of pharmaceuticals globally. Its products are targeted at the disease areas within the fields of psychiatry and neurology.

Founded in 1915, the Complainant currently employs over 5,500 people globally, and had a revenue of USD 2.89 billion in 2023.

The Complainant owns trademark registrations for LUNDBECK in many jurisdictions worldwide. These include:

- Danish trade mark registration no. VR 2011 02719, registered on November 9, 2011;
- Danish trade mark registration no. VR 2011 01888, registered on August 4, 2011;
- Mexico trade mark registration no. 436790, registered on July 2, 1993;
- U.S. trade mark registration no. 4673377, registered on January 20, 2015; and
- European Union trade mark no. 2068229, registered on September 27, 2002;

The Complainant owns several domain names incorporating its LUNDBECK mark, including <lundbeck.com>.

The disputed domain name was registered on January 4, 2024, and resolves to an inactive webpage.

#### **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:

- 1) The disputed domain name is confusingly similar to a trade mark in which the Complainant has rights. The disputed domain name incorporates the Complainant's LUNDBECK trade mark in its entirety with the addition of the generic term "Saudi", which is often used as a contraction of "Saudi Arabia". It also contains the generic Top-Level Domain ("gTLD") ".com". It is an established principle that the addition of a generic term and the presence of the gTLD does not dispel a finding of confusing similarity in a domain name with a trade mark.
- 2) The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has not been licensed or authorized to use the Complainant's LUNDBECK trade mark. The Complainant has never authorized the Respondent to register the disputed domain name. The Respondent has never been known by the disputed domain name, and has never used the disputed domain name as a trade mark, company name, business or trade name prior to the registration of the disputed domain name. The disputed domain name currently resolves to an inactive webpage, and it is therefore evident that the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name.
- 3) The domain name was registered and is being used in bad faith. The Complainant's LUNDBECK trade mark has been registered in the Respondent's country of residence, the U.S. Due to the

distinctiveness and intensive use of the Complainant's trade mark, the Respondent must have known of the Complainant's trade mark at the time of registering the disputed domain name. The disputed domain name resolves to an inactive website but this does not prevent a finding of bad faith under the doctrine of "passive holding". Further, the Respondent's contact information registered with the Registrar is likely to be falsified as the Complainant has not been able to verify the recorded contact information of the Respondent.

## **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 3.0](#), section 1.7.

The Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy. The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy.

The Panel finds the addition of the term "-saudi" does not prevent a finding of confusing similarity with the Complainant's LUNDBECK mark. [WIPO Overview 3.0](#), section 1.8.

The Panel finds that the first element of the Policy has been established.

### **B. Rights or Legitimate Interests**

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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 available 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 is not commonly known by the disputed domain name and was not licensed or authorized by the Complainant to use the LUNDBECK trade mark or to register the disputed domain name. The disputed domain name resolves to an inactive webpage, and there is no evidence that the Respondent is using or preparing to use the disputed domain name for any legitimate noncommercial or fair use. Paragraph 4(c) of the Policy provides a list of circumstances by which the Respondent may demonstrate rights or legitimate interests in the disputed domain name. The Respondent has, however, 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.

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.

In the present case, the Panel notes that the disputed domain name incorporates the entirety of the Complainant's distinctive and well-established trade mark with the addition of the generic term and hyphen, "-saudi". The LUNDBECK trade mark has been registered for many years. Given that length of time of use and registration of the LUNDBECK trade mark, including in the U.S. where the Respondent appears to be based, the Panel finds it highly unlikely that the Respondent did not know of the Complainant and its LUNDBECK trade mark at the time he registered the disputed domain name.

The addition of the term "-saudi" in the disputed domain name would suggest to Internet users that any website to which the disputed domain name resolves is associated or affiliated with the Complainant's business in Saudi Arabia or targeted at customers from Saudi Arabia. The Complainant notably has a trademark registration for LUNDBECK in Saudi Arabia.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the implausibility of any good faith use to which the disputed domain name may be put. [WIPO Overview 3.0](#), section 3.3. Having considered the totality of the circumstances, including the distinctiveness and reputation of the Complainant and its trade mark, as well as the composition of the disputed domain name, the Panel agrees that the passive holding of the disputed domain name in this case does not prevent a finding of bad faith registration and use under the Policy.

The Panel finds that the Complainant has established the third element of the Policy.

### 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 <lundbeck-saudi.com> be transferred to the Complainant.

*/Francine Tan/*

**Francine Tan**

Sole Panelist

Date: April 22, 2024