

ADMINISTRATIVE PANEL DECISION

H. Lundbeck A/S v. blog hellboy, blogger
Case No. D2024-3494

1. The Parties

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

The Respondent is blog hellboy, blogger, Indonesia.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 28, 2024. On August 28, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 28, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 30, 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 September 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 September 2, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 22, 2024. The Respondent sent email communications to the Center on September 2, 2024. The Center sent an email communication to the Parties regarding a possible settlement on September 2, 2024. However, the Complainant did not request suspension. The Respondent sent further email communications to the Center on September 23, 2024, and October 3, 2024.

The Center appointed Mario Soerensen Garcia as the sole panelist in this matter on October 3, 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, an international pharmaceutical company, founded in 1915, which is engaged in the research, development, production, marketing and sale of pharmaceuticals worldwide.

The Complainant is the owner of several trademark registrations for LEXAPRO, in connection with antidepressants, such as:

- Registration No. 002041259 for LEXAPRO, in class 5, registered with the European Union Intellectual Property Office ("EUIPO") on December 16, 2003;
- Registration No. 2684432 for LEXAPRO, in class 5, registered with the United States Patent and Trademark Office ("USPTO") on February 4, 2003.

The Complainant also owns domain names that contain the LEXAPRO trademark including <lexapro.com>, registered on January 22, 2001.

The Respondent is blog hellboy, blogger, from Indonesia.

The disputed domain name <lexapro.life> was registered on May 3, 2024, and resolves to a website offering betting and lottery related services.

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.

The Complainant argues that the disputed domain name incorporates their registered trademark in full and is thus confusingly similar to the trademark LEXAPRO.

There is no evidence that the Respondent has made demonstrable preparations to use the disputed domain name for legitimate purposes, nor is there any evidence that the Respondent is using the disputed domain name in connection with a bona fide offering of goods and services.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name. That being the case, the Complainant finds that the disputed domain name is used to take unfair advantage of the Complainant's rights as well as to prevent the Complainant from registering the disputed domain name.

Moreover, the Complainant stresses that the Respondent is not commonly known by the name "LEXAPRO". According to the Complainant, it has prior rights over the trademarks LEXAPRO and has not authorized the registration and use of the disputed domain name, nor the use of its trademarks by the Respondent.

The Respondent is not affiliated to or authorized by the Complainant to use or register the disputed domain name.

The Complainant's intellectual property rights for LEXAPRO trademarks predate the registration of the disputed domain name.

The Complainant also argues that the Respondent was aware of the Complainant's rights and has clearly registered the disputed domain name to target the Complainant's trademark. According to the Complainant, the registration of the disputed domain name was conducted in bad faith.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

On September 2, 2024, the Respondent sent an email to the Center, stating the following:

"Do you want to get/buy the <lexapro.life> domain from me?"

On September 23, 2024, other messages were sent by the Respondent:

"Thank you for informing me. <lexapro.life> is a domain that I have bought, and it is officially mine, if you want to buy it I will let you go, but at an agreed price"

"the active period you gave is not correct, because I just bought the domain.
this is the correct active period of the domain:"

"yes, i can see that. how are you? i have bought the domain why are you having a problem with it? yes if you are interested, please buy my domain."

"Thanks, I will!"

On October 3, 2024, the Respondent sent his final message to the Center:

"Why?"

6. Discussion and Findings

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements be satisfied:

- (i) the disputed domain name is identical or confusingly similar to the trademarks or service marks in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of 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 has shown rights in respect of the trademark LEXAPRO for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The applicable Top-Level Domain (“TLD”) in the disputed domain name (in this case “life”) is viewed as a standard registration requirement and as such is generally disregarded under the first element test. [WIPO Overview 3.0](#), section 1.11.1.

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.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving that 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 that 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.

There is no evidence that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name or that before any notice of the dispute the Respondent has made use of, or demonstrable preparations to use the disputed domain name or a name corresponding to the disputed domain name in connection with a bona fide offering of goods or services.

The nature of the disputed domain name carries a high risk of implied affiliation.

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.

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.

The Respondent clearly acquired the disputed domain name in order to sell it, as he requested in his previous emails to the Center. The Respondent is using the disputed domain name as a gambling/betting webpage. Having reviewed the record, the Panel finds the Respondent’s registration and use of the disputed domain name constitute bad faith 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 <lexapro.life> be transferred to the Complainant.

/Mario Soerensen Garcia/

Mario Soerensen Garcia

Sole Panelist

Date: October 17, 2024