

## **ADMINISTRATIVE PANEL DECISION**

H. Lundbeck A/S v. Lexa Labutin, RexLaxStore  
Case No. D2024-0914

### **1. The Parties**

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

The Respondent is Lexa Labutin, RexLaxStore, Poland.

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

The disputed domain name <lexaproaura.com> is registered with Tucows Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 1, 2024. On March 1, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 1, 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 (Contact Privacy Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 5, 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 March 6, 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 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 April 4, 2024.

The Center appointed Steven A. Maier as the sole panelist in this matter on April 10, 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 a company registered in Denmark. It is an international pharmaceutical company, specializing in products targeted at psychiatry and neurology in particular.

The Complainant supplies an antidepressant pharmaceutical product under the brand name and trademark LEXAPRO. It is the owner of trademark registrations for that mark in over 100 countries. Those registrations include, for example, European Union trademark registration number 002041259 for the word mark LEXAPRO, registered on December 16, 2003, in International Class 5.

The Complainant is also the registrant of the domain name <lexapro.com>.

The disputed domain name was registered on January 16, 2024.

The Complainant produces evidence that the disputed domain name has resolved to an online store, named "RexLaxShop", offering household and other goods unrelated to the Complainant or its LEXAPRO product.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant claims annual sales revenue, for products including LEXAPRO, of USD 2.89 billion for 2023.

The Complainant submits that the disputed domain name is confusingly similar to its LEXAPRO trademark. It contends that the additional term "aura" within the disputed domain name is a dictionary term which describes a symptom of migraine and does not affect the risk of confusion between the disputed domain name and its trademark.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It states that it has no relationship with the Respondent and has never authorized it to use its LEXAPRO trademark, that the Respondent has not been commonly known by the disputed domain name, and that the Respondent is making neither bona fide commercial use nor legitimate noncommercial or fair use of the disputed domain name. Instead, the Complainant contends that the Respondent is using the disputed domain name misleadingly to divert Internet users looking for the Complainant's product to its unrelated online store.

The Complainant submits that the disputed domain name has been registered and is being used in bad faith. It asserts that the Respondent was obviously aware of its LEXAPRO trademark when it registered the disputed domain name. It contends that the Respondent is using the disputed domain name to divert Internet users to its online shop in order to generate income. It adds that the Respondent has configured name servers upon the disputed domain name which may be used to impersonate the Complainant for the purpose of email fraud.

The Complainant requests the transfer of the disputed domain name.

##### **B. Respondent**

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

## 6. Discussion and Findings

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are that:

- (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 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

The Complainant has established that it is the owner of registered trademark rights for the mark LEXAPRO. The disputed domain name wholly incorporates that trademark, together with the term “aura”, which does not prevent the Complainant’s trademark from being recognizable within the disputed domain name. The Panel therefore finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

### B. Rights or Legitimate Interests

In the view of the Panel, the Complainant’s submissions set out above give rise to a prima facie case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. However, the Respondent has failed to file a Response in this proceeding and has not submitted any explanation for its registration and use of the disputed domain name, or evidence of rights or legitimate interests on its part in the disputed domain name, whether in the circumstances contemplated by paragraph 4(c) of the Policy or otherwise. The Panel finds, on the contrary, that the Respondent has used the disputed domain name unfairly to target and take advantage of the Complainant’s LEXAPRO trademark. The Panel therefore finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

### C. Registered and Used in Bad Faith

The Panel finds the Complainant’s LEXAPRO trademark to be distinctive of the Complainant’s associated product and infers in all the circumstances that the Respondent can only have registered the disputed domain name in order to take unfair advantage of the Complainant’s commercial goodwill relating to that trademark. The Panel finds further that the Respondent has used the disputed domain name to divert Internet users to its unrelated commercial website due to the implied affiliation of the disputed domain name with the Complainant’s trademarked product. The Panel finds, in particular, that by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant’s trademarks as to the source, sponsorship, affiliation, or endorsement of its website or of a product or service on its website (paragraph 4(b)(iv) of the Policy).

The Panel therefore finds that the disputed domain name has been registered and is being used 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 <lexaproaura.com> be transferred to the Complainant.

*/Steven A. Maier/*

**Steven A. Maier**

Sole Panelist

Date: April 22, 2024