

ADMINISTRATIVE PANEL DECISION

H. Lundbeck A/S v. Zsolt Bikadi

Case No. D2024-1306

1. The Parties

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

The Respondent is Zsolt Bikadi, Hungary.

2. The Domain Name and Registrar

The disputed domain name <lexapro.directory> is registered with Domain Science Kutatási Szolgáltató Korlátolt Felelősségű Társaság (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 27, 2024. On March 27, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 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, Domain Science Ltd.) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 2, 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 April 8, 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 April 10, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 30, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 1, 2024.

The Center appointed Dietrich Beier as the sole panelist in this matter on May 7, 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 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 company's products are targeted at the disease areas within psychiatry and neurology.

The Complainant is one of the world's leading pharmaceutical companies working with brain disorders. In 2022, the company's revenue was USD 1,71 billion. Today, the Complainant employs approximately 5,400 people worldwide.

The Complainant is the proprietor of several registrations for LEXAPRO worldwide dating back to the year 2000, among them the European Union Trademark 002041259 LEXAPRO in class 5, applied for on January 15, 2001, registered on December 16, 2003, which is in effect. The LEXAPRO trademark is being used for an antidepressant, and the mark is registered in more than 100 countries around the world.

The disputed domain name was registered on February 18, 2024. The website under the disputed domain name is not active. The Respondent initially was concealing its identity behind a privacy shield.

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 <lexapro.directory> is confusingly similar to the trademark LEXAPRO, in which the Complainant holds rights. The disputed domain name incorporates the Complainant's registered trademark in full with the addition of the generic Top-Level Domain ("gTLD") ".directory". The Complainant asserts that it is an established and recognized principle under the UDRP that the presence of the gTLD is irrelevant in the comparison of a domain name to a trademark.

Furthermore, the Respondent has not received any license or consent, express or implied, to use the Complainant's trademark LEXAPRO 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. At no time did the Respondent have authorization from the Complainant to register the disputed domain name.

Also, the Complainant contends that the Respondent has no rights in the disputed domain name since the Respondent has not used the disputed domain name as a trademark, company name, business or trade name prior to the registration of the disputed domain name, nor that the Respondent is otherwise commonly known in reference to the name.

The Complainant contends that because of the distinctive nature and intensive use of the Complainant's trademark LEXAPRO, the Respondent must have had positive knowledge as to the existence of the Complainant's trademark at the time the Respondent registered the disputed domain name. The Respondent concealing its identity behind a privacy shield is a further indication of bad faith.

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.

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.

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

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 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 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. This is in particular the case since the Respondent is not a licensee of the Complainant nor has the Complainant granted any permission or consent to the Respondent to use its trademarks. Furthermore, the Respondent has no legitimate interest in the disputed domain name since there is no indication that the Respondent is commonly known by the name "lexapro" nor that the Respondent is using the disputed domain name in connection with a bona fide offering of related goods or services.

C. Registered and Used in Bad Faith

Due to the long existence and intensive use of Complainant's marks, the Respondent must have been well aware of the Complainant and its trademarks when registering the disputed domain name. The Complainant had not authorised the Respondent to make use of its mark. This Panel does not see any conceivable legitimate use that could be made by the Respondent of this particular disputed domain name without the Complainant's authorization, even if the website under the disputed domain name is not active.

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 respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness of the Complainant’s trademark, and the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of 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.directory> be transferred to the Complainant.

/Dietrich Beier/

Dietrich Beier

Sole Panelist

Date: May 21, 2024.