

## ADMINISTRATIVE PANEL DECISION

H. Lundbeck A/S v. 磊 (leo) 李 (li)

Case No. D2024-1307

### 1. The Parties

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

Respondent is 磊 (leo) 李 (li) , China.

### 2. The Domain Name and Registrar

The disputed domain name <lexapro1.store> is registered with GoDaddy.com, LLC (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 27, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to Complainant on April 3, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on April 3, 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 Respondent of the Complaint, and the proceedings commenced on April 8, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 28, 2024. Respondent sent email communications to the Center on April 8, 2024. Pursuant to paragraph 6 of the Rules, on May 2, 2024, the Center informed the Parties that it would proceed with the panel appointment process. On May 6, 2024, the Registrar confirmed the decoded information of Respondent, and on May 7, 2024, the Center provided such information to the Parties. On May 8, 2024, Respondent sent another email communication to the Center.

The Center appointed Yijun Tian as the sole panelist in this matter on May 14, 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**

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

Complainant, H. Lundbeck A/S, is a company incorporated in Denmark. Founded in 1915, it is an international pharmaceutical company focused on psychiatry and neurology. In 2023, it reported revenues of USD 2.89 billion and employed over 5,500 people globally. Complainant markets pharmaceuticals for brain disorders under the brands like Lexapro, Rexulti, Brintellix, and Abilify Maintena.

Complainant has exclusive rights in the LEXAPRO marks. Complainant is the owner of numerous LEXAPRO marks worldwide, such as a United States of America (“USA”) trademark registration for LEXAPRO, registered since February 4, 2003 under the trademark registration number 2684432; India trademark registration for LEXAPRO, registered since October 22, 2002 under the trademark registration number 1145371; and a New Zealand trademark registration for LEXAPRO, registered since August 5, 2002 under the trademark registration number 648648.

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

Respondent is 磊 (leo) 李 (li) , China.

##### **C. The Disputed Domain Name**

The disputed domain name <lexapro1.store> was registered on February 19, 2024, after the LEXAPRO marks were registered. The disputed domain name resolved to a pay-per-click (“PPC”) website.

#### **5. Parties’ Contentions**

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

Complainant contends that the disputed domain name is identical or confusingly similar to the trademark LEXAPRO, which Complainant owns. It incorporates Complainant’s registered trademark along with the number “1”.

Complainant contends that Respondent has no rights or legitimate interests in respect of the disputed domain name.

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

Complainant requests that the disputed domain name be transferred to it.

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

Respondent did not formally reply to Complainant’s contentions. However, Respondent sent several informal email communications in Chinese to the Center on April 8, 2024, indicating that a) it purchased the disputed domain name from the official website of the Registrar; b) For all responsibilities, please contact the Registrar directly; c) Respondent reserves the right to pursue claims against the Registrar.

Respondent sent another informal email communication in English to the Center on May 8, 2024, indicating that, “Sorry, this information no longer belongs to me. Please find a registrar”.

## 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 Complainant's trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds 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 Panel finds the disputed domain name differs from Complainant's trademark LEXAPRO, by only adding the number "1" as the suffix. As the disputed domain name contains a misspelling of Complainant's LEXAPRO mark and Complainant's LEXAPRO mark is clearly recognizable in the disputed domain name, the Panel finds the disputed domain name is confusing similar to Complainant's mark. Section 1.9 of the [WIPO Overview 3.0](#) states: "A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element."

Based on the available record, 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 Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognised that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible 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. 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 record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted 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.

More specifically,

(i) There has been no evidence adduced to show that Respondent is using the disputed domain name in connection with a bona fide offering of goods or services. Respondent has not provided evidence of a legitimate use of the disputed domain name or reasons to justify the choice of the term "Lexapro", which is identical to Complainant's LEXAPRO trademark, in the disputed domain name. There has been no evidence to show that Complainant has licensed or otherwise permitted Respondent to use the LEXAPRO mark or to apply for or use any domain name incorporating the LEXAPRO mark.

(ii) There has been no evidence adduced to show that Respondent has been commonly known by the disputed domain name. There has been no evidence adduced to show that Respondent has any registered trademark rights with respect to the disputed domain name. Respondent registered the disputed domain name in 2024, long after the LEXAPRO mark became widely known. The disputed domain name is confusingly similar to Complainant's LEXAPRO mark; and

(iii) There has been no evidence adduced to show that Respondent is making a legitimate noncommercial or fair use of the disputed domain name. By contrast, the disputed domain name resolves to a website containing PPC links. It seems that Respondent is making profit through the Internet traffic attracted to the website under the disputed domain name. (See *BKS Bank AG v. Jianwei Guo*, WIPO Case No. [D2017-1041](#); *Pet Plan Ltd. v. 权中俊 and 李金梁 (Li Jin Liang)*, WIPO Case No. [D2020-3358](#).)

Based on the available record, 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 Respondent has registered and used the disputed domain name in bad faith.

The Panel finds that Complainant has a widespread reputation in the LEXAPRO marks with regard to its products. As mentioned above, Complainant started its business in 1915, and it has registered its LEXAPRO marks worldwide. It is more likely than not that Respondent knew of Complainant's trademark at the time of the registration of the disputed domain name in 2024. Thus, the Panel concludes that the disputed domain name was registered in bad faith.

Respondent has used the website resolved by the disputed domain name for displaying PPC links to third-party commercial websites. Thus, the Panel concludes that Respondent is currently using the confusingly similar disputed domain name with the intention to attract, for commercial gain, Internet users to Respondent's website by creating a likelihood of confusion with Complainant. Such use constitutes bad faith pursuant to paragraph 4(b)(iv) of the Policy.

In summary, Respondent, by choosing to register and use the disputed domain name, which is confusingly similar to the LEXAPRO mark, intended to ride on the goodwill of Complainant's trademark in an attempt to exploit, for commercial gain, Internet users destined for Complainant. In the absence of evidence to the contrary and rebuttal from Respondent, the choice of the disputed domain name and the conduct of Respondent as far as the website to which the disputed domain name resolves is indicative of registration and use of the disputed domain name in bad faith.

Based on the available record, the Panel finds the third element of the Policy has been established.

## **7. Decision**

For all 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 <lexapro1.store> be transferred to Complainant.

*/Yijun Tian/*

**Yijun Tian**

Sole Panelist

Dated: June 2, 2024