

ADMINISTRATIVE PANEL DECISION

H. Lundbeck A/S v. Bkanggara Windarti, My Store
Case No. D2024-2000

1. The Parties

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

The Respondent is Bkanggara Windarti, My Store, Germany.

2. The Domain Name and Registrar

The disputed domain name <lundbeckpakistan.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 May 14, 2024. On May 14, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 15, 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. Customer 0170479159”) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 17, 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 May 21, 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 May 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 12, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 13, 2024.

The Center appointed Daniel Peña as the sole panelist in this matter on June 20, 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 over 100 countries, among others:

- 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

The Complainant has a sales subsidiary in Karachi in Pakistan named Lundbeck Pakistan (PVT) Ltd.

The disputed domain name was registered on March 7, 2003.

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 contends that 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 geographic term "pakistan", which is the name of a country in South Asia. It also contains the generic Top-Level Domain ("gTLD") ".com". It is an established principle that the addition of a term and the presence of the gTLD does not dispel a finding of confusing similarity in a domain name with a trade mark.

The Complainant contends that 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.

The disputed domain name was registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (i) the disputed domain names are 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 names; and (iii) the disputed domain names have been registered and is being used in bad faith. Considering these requirements, the Panel rules as follows:

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights. The Complainant has provided evidence of its rights in the trademarks LUNDBECK on the basis of its multiple worldwide trademark registrations. A trademark registration provides a clear indication that the rights in the trademark belong to the Complainant (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition "[WIPO Overview 3.0](#)", section 1.2.1). It has also been established by prior UDRP panels that incorporating a trademark in its entirety into a domain name can be sufficient to establish that the domain name is confusingly similar to a trademark. Such findings were confirmed, for example, within section 1.7 of [WIPO Overview 3.0](#). The Panel finds that the disputed domain name is confusingly similar to the Complainant's LUNDBECK marks. The Respondent's incorporation of the Complainant's mark in full in the disputed domain name is evidence that the disputed domain name is confusingly similar to the Complainant's marks. The mere addition of the geographic term "pakistan" to the Complainant's trademark LUNDBECK does not prevent a finding of confusing similarity with the Complainant's marks.

Furthermore, the addition of the generic Top-Level Domain "(gTLD)" ".com" is not sufficient to prevent a finding of confusing similarity either. The Panel is satisfied that the disputed domain name is identical or confusingly similar to the Complainant's mark and the Complainant has satisfied the requirement of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant bears the burden of proof in establishing this requirement. In view of the difficulties inherent in proving a negative and because the relevant information is mainly in the possession of the Respondent, it is enough for the Complainant to establish a prima facie case which, if not rebutted by sufficient evidence from the Respondent, will lead to this ground being set forth. Refraining from submitting any Response, the Respondent has brought to the Panel's attention no circumstances from which the Panel could infer that the Respondent has rights to or legitimate interests in the disputed domain name.

The Complainant claims that the Respondent has no connection or affiliation with the Complainant and has not received any license or consent, express or implied, to use the Complainant's trademarks in a domain name or in any other manner.

Furthermore, the disputed domain name directs to an inactive website.

The Panel also finds that the nature of the disputed domain name, reproducing the Complainant's trademark in addition to a geographical term, carries a risk of implied affiliation with the Complainant's trademarks (see [WIPO Overview 3.0](#), section 2.5.1).

The Respondent did not submit a Response or attempt to demonstrate any rights or legitimate interests in the disputed domain name, and the Panel draws adverse inferences from this failure, where appropriate, in accordance with the Rules, paragraph 14(b). The Panel finds the Respondent has no rights or legitimate interests in respect of the disputed domain name and that paragraph 4(a)(ii) of the Policy is satisfied.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy stipulates that any of the following circumstances, inter alia, shall be considered as evidence of the registration and use of a domain name in bad faith: (i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or (ii) circumstances indicating that the respondent registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or (iii) circumstances indicating that the respondent registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) circumstances indicating that the respondent is using the domain name to intentionally attempt to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on its website or location.

With regard to the bad faith at the time of registration, the Panel notes that "lundbeck" is not a common or descriptive term, but a renowned trademark in and to which the Complainant has demonstrated rights. The Panel has reviewed the list of registered trademarks submitted with the Complaint confirming that some of the registrations of the LUNDBECK trademark predate the date of registration of the disputed domain name. The disputed domain name reproduces, without any authorization or approval, the Complainant's registered trademarks. Moreover, the disputed domain name is inherently misleading as it reproduces the Complainant's LUNDBECK trademark together with the geographical term "pakistan", which corresponds to the name of a country which the Complainant's subsidiary operates in. Therefore, it is more likely than not that the Respondent, when registering the disputed domain name, had knowledge of the Complainant's earlier rights to the LUNDBECK trademark.

The bad faith registration and use of the disputed domain name are also affirmed by the fact that the Respondent has not denied, or even responded to, the assertions of bad faith made by the Complainant in this proceeding. Furthermore, the Panel finds that the passive holding of the disputed domain name in the circumstances of the case does not prevent a finding of bad faith registration and use.

On the contrary, this Panel agrees with the Complainant's assertion that in the case of domain names containing well-known earlier marks, passive holding can constitute an indication of bad faith. Here the Panel finds that the Respondent's passive holding of the disputed domain name does not prevent a finding of bad faith (see section 3.3 of the [WIPO Overview 3.0](#)).

Lastly, the Panel observed that the Respondent used a privacy shield to hide his identity. While the Respondent's use of a privacy service does not in itself constitute bad faith under the Policy, the Panel may still take it into account and draw adverse inferences. The use of the privacy shield in this case together with other elements give rise to the suspicion that the privacy shield was used to mask the identity of the true registrant to give the impression that the Complainant is offering this website in the absence of any information regarding the ownership of the website and to obstruct proceedings commenced under the Policy.

Accordingly, the Panel finds, based on the evidence presented, that the Respondent registered and is using the disputed domain name in bad faith. Therefore, the Complainant has satisfied paragraph 4(a)(iii) 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 <lundbeckpakistan.com> be transferred to the Complainant.

/Daniel Peña/

Daniel Peña

Sole Panelist

Date: July 1, 2024