

ADMINISTRATIVE PANEL DECISION

Laboratory Corporation of America Holdings v. PXC Technology Pty Ltd
Case No. DAU2024-0029

1. The Parties

The Complainant is Laboratory Corporation of America Holdings, United States of America (“United States”), represented by Kilpatrick Townsend & Stockton LLP, United States.

The Respondent is PXC Technology Pty Ltd, Australia.

2. The Domain Name and Registrar

The disputed domain name <labcorp.com.au> is registered with Drop.com.au Pty Ltd.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 11, 2024. On October 14, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 15, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the Complaint satisfied the formal requirements of the .au Dispute Resolution Policy (the “Policy” or “.auDRP”), the Rules for .au Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for .au Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2(a) and 4(a), the Center formally notified the Respondent of the Complaint, and the proceedings commenced on October 23, 2024. In accordance with the Rules, paragraph 5(a), the due date for Response was November 12, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 13, 2024.

The Center appointed Matthew Kennedy as the sole panelist in this matter on November 15, 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 health care diagnostics company that operates under the name “Labcorp”. It owns multiple trademark registrations, including the following:

- United States trademark registration number 2000799 for LABCORP, registered on September 17, 1996, with a claim of first use in commerce on April 26, 1995, specifying services in classes 35 and 42; and
- Australian trademark registration number 2144105 for LABCORP, registered on August 9, 2021, specifying goods and services in classes 10, 35, 42, and 44.

The above trademark registrations are current. The Complainant also uses the domain name <labcorp.com> in connection with a website where it provides information about itself and its services.

The Respondent is a company based in Australia.

The disputed domain name was registered on December 11, 2008. According to extracts from Whois records presented by the Complainant, the original registrant of the disputed domain name was a third party and the registrant contact name remained the same until as recently as February 5, 2023. The Respondent has been the current registrant since at least April 12, 2024.

The disputed domain name resolves to a landing page displaying Pay-Per-Click (“PPC”) links related to topics including Labcorp Locations, Medical Appointment, and Quest Diagnostic Appointment. A link at the top of the page reads “The domain name labcorp.com.au may be for sale. Click here to enquire about this domain”. Internet users who click on this link are taken to a domain name broker’s contact form where they can submit an offer for the disputed domain name. On July 25, 2024, the Complainant’s representative made an offer via the contact form to pay USD 500 for the disputed domain name. On August 1, 2024, the domain name broker responded that its client, the owner, had advised that the asking price is USD 9,000.

5. Parties’ Contentions

A. Complainant

The disputed domain name is identical or confusingly similar to the Complainant’s LABCORP mark.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. There is no relationship between the Complainant and the Respondent. The Respondent has no rights to own or use any domain name incorporating the Complainant’s LABCORP mark.

The disputed domain name was registered and is being used in bad faith. The Respondent has registered or is using the disputed domain name in bad faith because the disputed domain name is identical to the Complainant’s registered mark, and the Respondent passively held it without making any actual or contemplated good faith use. The correspondence from the Respondent offering to sell the disputed domain name for USD 9,000, an amount that is likely far greater than the Respondent’s out-of-pocket costs, is evidence of bad faith.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the auDRP provides that a complainant must prove each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to a name, trademark or service mark in which the complainant has rights; and
- (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 or subsequently used in bad faith.

The burden of proof of each element is borne by the Complainant.

A. Identical or Confusingly Similar

Based on the evidence submitted, the Panel finds that the Complainant has rights in the LABCORP mark.

The disputed domain name wholly incorporates the LABCORP mark with no additional element besides the 2LD suffix “.com.au”. This element is generally disregarded in an assessment of confusing similarity between a domain name and a trademark for the purposes of the auDRP. See *BT Financial Group Pty Limited v. Basketball Times Pty Ltd*, WIPO Case No. [DAU2004-0001](#); *Telstra Corporation Limited v. CQ Media Group Pty Ltd*, WIPO Case No. [DAU2008-0023](#).

Therefore, the Panel finds that the disputed domain name is identical to a trademark in which the Complainant has rights. The Complainant has satisfied the first element in paragraph 4(a) of the auDRP.

B. Rights or Legitimate Interests

Paragraph 4(c) of the auDRP sets out circumstances which, without limitation, if found by the Panel to be proven based on its evaluation of all evidence presented, shall demonstrate that the Respondent has rights to, or legitimate interests in, a disputed domain name, for the purposes of paragraph 4(a)(ii) of the auDRP:

- (i) before any notice to [the respondent] of the subject matter of the dispute, [the respondent's] bona fide use of, or demonstrable preparations to use, the [disputed] domain name or a name corresponding to the [disputed] domain name in connection with an offering of goods or services (not being the offering of domain names that you have acquired for the purpose of selling, renting or otherwise transferring); or
- (ii) [the respondent] (as an individual, business, or other organization) [has] been commonly known by the [disputed] domain name, even if [the respondent has] acquired no trademark or service mark rights; or
- (iii) [the respondent is] making a legitimate noncommercial or fair use of the [disputed] domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

In the present case, the disputed domain name is used in connection with a landing page that displays PPC links to websites related to the Complainant and to the health care diagnostics services that the Complainant provides. At the top of the landing page there is a link for Internet users who wish to buy the disputed domain name. The Complainant submits that it has no relationship with the Respondent. In the Panel's view, this does not constitute a bona fide use of the disputed domain name in connection with an offering of goods or services within the terms of paragraph 4(c)(i) of the auDRP, nor a legitimate noncommercial or fair use of the disputed domain name within the terms of paragraph 4(c)(iii) of the auDRP.

Nothing in the record indicates that the Respondent has been commonly known by the disputed domain name within the terms of paragraph 4(c)(ii) of the auDRP.

Based on the above, the Panel considers that the Complainant has made a prima facie case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent did not rebut that case because he did not respond to the Complaint.

Therefore, based on the record of this proceeding, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant has satisfied the second element in paragraph 4(a) of the auDRP.

C. Registered or Subsequently Used in Bad Faith

The Panel notes that the third element of the auDRP contains two requirements that apply disjunctively. It is sufficient for the Complainant to demonstrate either that the disputed domain name has been registered in bad faith, or that it has been subsequently used in bad faith, but not necessarily both.

Paragraph 4(b) of the auDRP provides that certain circumstances, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith, although it is not an exhaustive list of such circumstances. The first of these circumstances is as follows:

(i) circumstances indicating that [the respondent has] registered or [the respondent has] acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to another person for valuable consideration in excess of [the respondent's] documented out-of-pocket costs directly related to the domain name.

In the present case, the disputed domain name was acquired by the Respondent at some point between February 5, 2023 and April 12, 2024 which was in any event after the Complainant acquired its LABCORP trademark registrations, including in Australia, where the Respondent is based. "Labcorp" is not a dictionary word but a coined term and the disputed domain name wholly incorporates it with no other element besides a 2LD extension. The disputed domain name is used with a PPC links landing page that displays links related to the Complainant and the type of services that it provides. The Respondent provides no explanation for his choice to register the disputed domain name. In view of these circumstances, the Panel finds it more likely than not that the Respondent registered the disputed domain name with the Complainant's LABCORP mark in mind.

The disputed domain name is used with a landing page displaying PPC links, at the top of which there is a link to a domain name broker's contact form where Internet users may submit an offer to buy the disputed domain name. According to the evidence, the Respondent indicated, via the domain name broker, that the asking price for the disputed domain name is USD 9,000. The Panel considers that this amount is likely to exceed the Respondent's documented out-of-pocket costs directly related to the disputed domain name and that the circumstances of this case fall within the terms of paragraph 4(b)(i) of the auDRP.

Therefore, the Panel finds that the disputed domain name has been registered and is being used in bad faith. The Complainant has satisfied the third element in paragraph 4(a) of the auDRP.

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 domain name <labcorp.com.au> be transferred to the Complainant.

/Matthew Kennedy/

Matthew Kennedy

Sole Panelist

Date: November 26, 2024