Decision for dispute CAC-UDRP-101905

Case number	CAC-UDRP-101905
Time of filing	2018-02-27 09:18:19
Domain names	lundbeckpsychiatry.org

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	H. Lundbeck A/S

Complainant representative

Organization	Wallberg IP Advice

Respondent

Organization	Suso Webmaster

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings pending or decided between the same parties and relating to the Disputed Domain Name.

IDENTIFICATION OF RIGHTS

The Complainant is the registered owner of many trademark registrations consisting of the term “LUNDBECK” in more than 100 countries around the world in particular European Union trademark no. 1147485 registered on 14.12.2011 for goods and services in classes 5, 9, 10, 16, 35, 40, 41, 42 and 44.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Complainant was founded in 1915 and is an international pharmaceutical company engaged - also through its official website www.lundbeck.com - in the research, development, production, marketing and sale of pharmaceuticals across the world. The company's products are targeted at disorders such as depression and anxiety, psychotic disorders, epilepsy and Huntington's, Alzheimer's and Parkinson's diseases. It is one of the world's leading pharmaceutical companies working with brain disorders and employs approximately 5.000 people worldwide. In 2016, its revenue was USD 2.5 billion. It markets a number of different pharmaceuticals for the treatment of brain disorders.

The Complainant further contends the distinctiveness and intensive use of its trademarks.

The Disputed Domain Name <lundbeckpsychiatry.org> was created on 24.05.2017 and resolves to a website that contains information on and promote services related to “COMMON PROBLEMS OF WATER HEATER IN APARTMENTS AND HOW TO PREVENT SUCH PROBLEMS”.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

1. The Panel finds that the Disputed Domain Name is confusingly similar to the Complainant’s trademark. Many Panels have found that a Disputed Domain Name is confusingly similar to a Complainant’s trademark where the Disputed Domain Name incorporates the Complainant’s trademark in its entirety. This is the case in the case at issue where the Complainant’s registered trademark “LUNDBECK” is fully included in the Disputed Domain Name followed by the generic term “PSYCHIATRY”, which is related to the Complainant’s business activity and is likely to increase the possibility of confusion amongst consumers.

2. In the absence of any Response, or any other information from the Respondent indicating the contrary, the Panel further holds that the Complainant successfully presented its prima facie case and that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

In particular, the Respondent is not affiliated with nor authorized by the Complainant in any way, and he is not related in any way to the Complainant’s business. In addition, the Respondent is not commonly known by the Disputed Domain Name.

Finally, the Disputed Domain Name resolved to a website containing information on water heaters. This Panel finds that the Respondent failed to provide a credible explanation for its choice of the Disputed Domain Name. Such use can neither be considered as bona fide offering of goods or services nor a legitimate non-commercial 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.

3. Finally, the Panel finds that the Disputed Domain Name has been registered and is being used in bad faith.

It is the view of this Panel that the Respondent has intentionally registered the Disputed Domain Name which totally

reproduces the trademark “LUNDBECK” of the Complainant, that has been established many decades ago. Moreover, this trademark is followed by the generic term “PSYCHIATRY”, which is related to the Complainant’s area of activity. By the time the Disputed Domain Name was registered, it is unlikely that the Respondent did not have knowledge of the Complainant’s rights on its trademark. In addition, the Respondent used the Disputed Domain Name to lead to a website where it is unlikely that the claimed services are genuinely offered, since the contact information provided in the website seems not to be genuine. These facts, including the failure to submit a response, the privacy shield to hide the Respondent’s identity, also confirm that the Disputed Domain Name has been registered and is being used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **LUNDBECKPSYCHIATRY.ORG**: Transferred

PANELLISTS

Name	**Dr. Federica Togo**

DATE OF PANEL DECISION 2018-05-09

Publish the Decision