Decision for dispute CAC-UDRP-100536

Case number	**CAC-UDRP-100536**
Time of filing	**2012-12-02 15:59:08**
Domain names	**buycheaplexapro.com**

Case administrator

Name	**Lada Válková (Case admin)**

Complainant

Organization	**H. Lundbeck A/S**

Complainant representative

Organization	**Wallberg IP Advice**

Respondent

Organization	**Fundacion Private Whois Dom. Admin.**

OTHER LEGAL PROCEEDINGS

None

IDENTIFICATION OF RIGHTS

The Complainant owns a large number of registered trademarks worldwide comprising the word 'LEXAPRO', inter alia the international trademark registration no. 778106 “LEXAPRO” (word) with registration date 16 March 2002.

FACTUAL BACKGROUND

The Complainant H. Lundbeck A/S is 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 disorders such as depression and anxiety, psychotic disorders, epilepsy and Huntington's, Alzheimer's and Parkinson's diseases. Lundbeck was founded in 1915 by Hans Lundbeck in Copenhagen, Denmark. Today Lundbeck employs approximately 6,000 people worldwide.

Lundbeck is one of the world's leading pharmaceutical companies working with brain disorders. In 2011, the company's revenue was DKK 16.0 billion (approximately EUR 2.2 billion or USD 3.0 billion). For more information, reference is made to the official website www.lundbeck.com.

Lundbeck markets a number of different pharmaceuticals for the treatment of brain disorders. The most recently launched

compounds include (using the Complainant's registered trademarks): Cipralex/Lexapro (depression), Ebixa (Alzheimer's disease), Azilect (Parkinson's disease), Xenazine (chorea associated with Huntington's disease), Sabril (epilepsy), Sycrest (bipolar disorder) and Onfi (Lennox-Gastaut syndrome).

The trademark Lexapro has been registered by the Complainant in more than 100 countries around the world.

The Respondent has registered and is using the contested domain name without the Complainant's consent for a website that contains pay-per-clock links and advertisements for businesses other than the Complainant, some of them in the pharmaceutical sector.

PARTIES CONTENTIONS

No administratively compliant response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the 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 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 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

A. The contested domain name is confusingly similar to the trade mark Lexapro, in which the complainant has registered rights. The domain name incorporates the complainant's registered trademark combined with the generic and descriptive term "buy cheap" and the generic top level domain suffix.

B. The Respondent has no rights or legitimate interests in respect of the domain name. The Respondent has not received any license or consent from the Complainant to use its trademark, Lexapro, in a domain name or in any other manner.

The Respondent did not use the domain name as a trademark, company name, business or trade name prior to the registration of the disputed domain name, nor is the Respondent otherwise commonly known in reference to the name. It is evident from the content of the Respondent's website that the Respondent intentionally attempts to attract for commercial gain Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to its source, sponsorship, affiliation or endorsement. The Respondent is not using the domain name in connection with a bona fide offering of goods and services.

It is also evident that the Respondent is not making a legitimate noncommercial or fair use of the domain name.

C. In view of the distinctive nature and intensive use of the Complainant´s trademark Lexapro, and on the undisputed evidence of the Complainant, it can be inferred that the Respondent had actual knowledge of this trademark when it registered the domain name.

Furthermore, the Respondent is using the domain name to divert Internet traffic to a site that contains pay-per-clock links and advertisements. By doing this the Respondent intentionally attempts to attract for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to its source, sponsorship, affiliation or endorsement. In accordance with paragraph 4(b)(iv) of the UDRP this constitutes evidence that the domain name was registered and is being used in bad faith. There is nothing in the file that displaces this presumption in this case.

The Panel accordingly concludes that the domain name was 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. **BUYCHEAPLEXAPRO.COM**: Transferred

PANELLISTS

Name	**Jonathan Turner**

DATE OF PANEL DECISION 2013-01-12

Publish the Decision