

ADMINISTRATIVE PANEL DECISION

Eli Lilly and Company v. joeymclen
Case No. D2024-2064

1. The Parties

The Complainant is Eli Lilly and Company, United States of America (“United States”), represented by Faegre Drinker Biddle & Reath LLP, United States.

The Respondent is joeymclen, United States.

2. The Domain Name and Registrar

The disputed domain name <mounjaromedication.com> is registered with Nicenic International Group Co., Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 16, 2024. On May 17, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 17, 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 (DOMAIN PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 20, 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 21, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 10, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 12, 2024.

The Center appointed Kathryn Lee 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 is an American pharmaceutical company founded in 1876. The Complainant now has more than 44,000 employees worldwide and its products are marketed in approximately 105 countries. The Complainant's revenues in 2023 were USD 34 billion. In 2024, the Complainant was included in Fortune's Fortune 500 and World's Most Admired Companies, Time's 100 Most Influential Companies, and IDEA Pharma's Pharmaceutical Innovation and Invention Index. "Mounjaro" is the name of the Complainant's injectable pharmaceutical product for the treatment of type 2 diabetes. The United States Food and Drug Administration announced its approval of the Mounjaro product on May 13, 2022, and it was launched by the Complainant in June 2022. By the end of 2022, the Mounjaro product produced nearly USD 280 million in revenues, and the revenues in 2023 were USD 5.16 billion, and the first quarter 2024 revenues were USD 1.8 billion.

The Complainant owns a number of trademark registrations for the MOUNJARO mark, including Trademark Registration Number 6,809,369 registered in the United States on August 2, 2022, Trademark Registration Number 7,068,463 registered in the United States on May 30, 2023, Trademark Registration Number UK00003608193 registered in the United Kingdom on July 16, 2021, and Trademark Registration Number 018209187 registered in the European Union on September 8, 2020.

The Respondent appears to be an individual with an address in the United States.

The disputed domain name was registered on October 29, 2023, and as of the date of the filing of the Complaint, it resolved to a website prominently displaying the Complainant's trademark, and purportedly offering MOUNJARO-trademarked medication for sale.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to the Complainant's trademark, since the disputed domain name incorporates the MOUNJARO mark and differs only by the addition of the descriptive word "medication" which appears after the trademark.

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name and confirms that it has not authorized or licensed rights to the Respondent in any respect. The Complainant contends that the disputed domain name resolves to a website offering what appears to be gray market or counterfeit MOUNJARO branded products. The Complainant explains that its Mounjaro product is only approved for use in a limited number of jurisdictions, and only with a prescription, while the website purports to ship the Mounjaro product to anywhere in the world including those where the Mounjaro product is not yet approved, without any prescription. The Complainant contends that this does not equate to actually offering the goods at issue.

Finally, the Complainant contends that the disputed domain name was registered and used in bad faith. The Complainant contends that the Complainant extensively marketed the Mounjaro product and that it is a mark that the Respondent knew, or should have known. The Complainant further contends that the Respondent's use of the disputed domain name to offer prescription-only products without proof of any prescription and to

jurisdictions where prescriptions are not legalized support a finding of bad faith. In addition, the Complainant contends that the Respondent uses the Complainant's copyrighted images, trademarks, instructions, and warnings, which mislead users into believing that the website has some association with the Complainant.

B. Respondent

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

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 the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

The 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.

As the disputed domain name consists of "mounjaro" with the term "medication", the entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms – here, "medication" – may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult 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 (although the burden of proof always remains on the complainant). 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 available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the 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.

The Panel considers that the composition of the disputed domain name carries a risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1. Further, the disputed domain name resolves to a website prominently displaying the Complainant's trademark and purportedly offering the Complainant's

medicines for sale. There is not any disclaimer clarifying the (lack of) relationship between the Parties. Panels have held that the use of a domain name for illegal activity – here, impersonation/passing off – can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 first notes that the registration of the disputed domain name, which is confusingly similar to the Complainant's famous MOUNJARO mark, by the Respondent, who is unaffiliated with the Complainant, creates a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

Further, the Respondent used the disputed domain name to purportedly sell Mounjaro products to Internet users using the Complainant's copyrighted materials and trademarks without authorization. Based on such use and the fact that the disputed domain name only consists of the name of the Complainant's product and the term "medication", the Panel finds that by registering and using the disputed domain name, the Respondent intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's mark.

In addition, panels have held that the use of a domain name for illegal activity – here, impersonation/passing off – constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel finds that the Complainant has established the third element 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 <mounjaromedication.com> be transferred to the Complainant.

/Kathryn Lee/

Kathryn Lee

Sole Panelist

Date: July 4, 2024