

## **ADMINISTRATIVE PANEL DECISION**

Eli Lilly and Company v. Anton  
Case No. DCC2024-0041

### **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 Anton, Kazakhstan.

### **2. The Domain Name and Registrar**

The disputed domain name <mounjaro.cc> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 30, 2024. On December 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 31, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on January 3, 2025, 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 January 7, 2025.

The Center verified that the Complaint together with the amended 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 January 14, 2025. In accordance with the Rules, paragraph 5, the due date for Response was February 3, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 4, 2025.

The Center appointed Debrett G. Lyons as the sole panelist in this matter on February 6, 2025. 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 factual findings pertinent to the decision in this case are that:

- (1) the Complainant uses the trademark MOUNJARO in relation to pharmaceutical products;
- (2) the Complainant is the owner of United States Patent and Trademark Office (“USPTO”) Reg. No. 6,809,369, registered on August 2, 2022, for the trademark, MOUNJARO;
- (3) the disputed domain name was registered on August 25, 2023;
- (4) the disputed domain name resolved to an online location where gray market or counterfeit product bearing the trademark are promoted for sale; and
- (5) there is no relationship between the Parties and the Complainant has not authorized the Respondent to use its trademark, or register any domain name incorporating that mark, or sell Complainant’s products bearing the trademark.

#### **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.

Notably, the Complainant states that it developed the pharmaceutical “tirzepatide” for the treatment of type-2 diabetes, which it has successfully marketed under the name, MOUNJARO. The Complainant asserts trademark rights in that name by reason of use and registration and submits that the disputed domain name is identical to the trademark for the purposes of the Policy since it merely comprises the trademark and the country code top-level domain (“ccTLD”) for the Cocos (Keeling) Islands, “.cc”.

The Complainant alleges that the Respondent has no rights or legitimate interests in the disputed domain name because it has no trademark rights; it is not known by the disputed domain name; and use of the disputed domain name has not been bona fide since it has been used in connection with a mobile-only website to sell gray market or potentially counterfeit versions of Complainant’s MOUNJARO brand product in jurisdictions where the product has not been legally approved for distribution.

The Complainant alleges that the Respondent registered the disputed domain name in bad faith being aware of the Complainant and its trademark and has used the disputed domain name in bad faith by making the prescription-only product available in countries where it cannot be legally obtained.

The Complainant accordingly requests the Panel to order transfer of the disputed domain name.

##### **B. Respondent**

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

## 6. Discussion and Findings

According to paragraph 4(a) of the Policy, the Complainant must prove that:

- (i) the disputed domain name is 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 name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

It is the responsibility of the Panel to consider whether the requirements of the Policy have been met, regardless of the fact that the Respondent failed to submit a response. Having considered the Complaint and the available evidence, the Panel finds the following:

### A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires a two-fold enquiry – a threshold investigation into whether a complainant has rights in a trademark, followed by an assessment of whether the disputed domain name is identical or confusingly similar to the trademark.

Paragraph 4(a)(i) does not distinguish between registered and unregistered trademark rights. It is accepted that a trademark registered with a national authority is evidence of trademark rights for the purposes of the Policy.<sup>1</sup> The Panel finds that the Complainant has shown trademark rights in MOUNJARO since it provides proof of its registration of that term with the USPTO, a national trademark authority.<sup>2</sup>

For the purposes of comparing the disputed domain name with the trademark, the ccTLD “.cc” can be disregarded.<sup>3</sup> The Panel finds that the disputed domain name is identical to the trademark and so finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

### B. Rights or Legitimate Interests

The Complainant has the burden to establish that the Respondent has no rights or legitimate interests in the disputed domain name. Nevertheless, it is well settled that the Complainant may first make out a prima facie case, after which the burden of production shifts to the Respondent to rebut such prima facie case by providing evidence demonstrating rights or legitimate interests in the disputed domain name.<sup>4</sup>

Notwithstanding the lack of a response to the Complaint, paragraph 4(c) of the Policy states that any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate rights or legitimate interests to a domain name for purposes of paragraph 4(a)(ii) of the Policy:

“(i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or

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<sup>1</sup>WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[WIPO Overview 3.0](#)”), section 1.1.1

<sup>2</sup>[WIPO Overview 3.0](#), section 1.2.1.

<sup>3</sup>[WIPO Overview 3.0](#), section 1.7.

<sup>4</sup>[WIPO Overview 3.0](#), section 2.1; see also *Do The Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#).

(ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or

(iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.”

The Respondent’s name does not suggest that the Respondent might be commonly known by the disputed domain name, and the Panel finds no other evidence that the Respondent might be known by the disputed domain name. Further, the Complainant states that there is no association between the Parties and the Panel finds that there is nothing to contradict that claim. There is no evidence that the Respondent has any trademark rights. Finally, panels have held that the use of a domain name for an illegitimate activity, here, the sale of counterfeit goods or illegal pharmaceuticals, can never confer rights or legitimate interests on a respondent.<sup>5</sup> Even if products bearing the trademark for sale at the resolving website were first put on the market by Complainant and are genuine in that sense, the Respondent has not meet the good faith criteria laid down in the leading case of *Okidata Americas, Inc v. ASD, Inc*, WIPO Case No. [D2001-0903](#). In particular, the website does not disclose Respondent’s (lack of) relationship with and authority from the trademark owner (Complainant). In any case, the evidence is that the Respondent is promoting the sale of third party branded goods which directly compete with the Complainant’s MOUNJARO branded product.

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. In failing to file a Response, 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 finds the second element of the Policy has been established.

### **C. Registered and Used in Bad Faith**

Paragraph 4(b) of the Policy sets out circumstances, which shall be evidence of the registration and use of a domain name in bad faith. They are:

“(i) circumstances indicating that you have registered or you have 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 your documented out-of-pocket costs directly related to the domain name; or

(ii) you have 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 you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your 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 your website or location or of a product or service on your website or location.”

The Panel finds that the use of the disputed domain name is caught by paragraph 4(b)(iv) above. The Panel has already found the disputed domain name to be identical to the trademark for the purposes of the Policy. Confusion is thus inevitable. Further, it is self-evident that the Respondent knew of the Complainant and its

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<sup>5</sup>[WIPO Overview 3.0](#), section 2.13.1.

trademark when it registered the disputed domain name. The use of the disputed domain name is manifestly for commercial gain and so, in terms of paragraph 4(b)(iv), the Panel finds that the Respondent has used the disputed domain name intending to attract Internet users to its webpage or online location for commercial gain by causing a likelihood of confusion as to the source or endorsement of that webpage or location. The Panel finds that the Complainant has satisfied the third and final 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 <mounjaro.cc> be transferred to the Complainant.

*/Debrett G. Lyons/*

**Debrett G. Lyons**

Sole Panelist

Date: February 10, 2025