

## **ADMINISTRATIVE PANEL DECISION**

Eli Lilly and Company v. Mounjaro Admin, Mounjaro Kuwait  
Case No. D2024-5009

### **1. The Parties**

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

The Respondent is Mounjaro Admin, Mounjaro Kuwait, Kuwait.

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

The disputed domain name <mounjarokuwait.com> is registered with Tucows Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 4, 2024. On December 5, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 5, 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 (Contact Privacy Inc. Customer 0169541816) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 6, 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 December 6, 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 December 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 1, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 6, 2025.

The Center appointed Anne-Virginie La Spada as the sole panelist in this matter on January 20, 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 Complainant is a multinational pharmaceutical company, with headquarters in Indianapolis, United States. The Complainant commercializes in numerous countries throughout the world an injectable prescription-only pharmaceutical product for the treatment of diabetes under the mark MOUNJARO.

The Complainant owns various trademark registrations for MOUNJARO, among which:

- United States trademark registration no. 6809369, registered on August 2, 2022 in class 5;
- United States trademark registration no. 7068463, registered on May 30, 2023 in class 44;
- United Kingdom trademark registration no. UK00003608193, registered on July 16, 2021 in class 5;
- European Union trademark registration no. 018209187, registered on September 8, 2020 in class 5.

The Complainant owns the domain name <mounjaro.com>, registered on October 21, 2019, where it advertises and provides information on the products sold under its MOUNJARO trademark.

The disputed domain name was registered on December 7, 2023.

At the time of filing of the Complaint, the disputed domain name resolved to a website purportedly offering for sale the Complainant's MOUNJARO product without any apparent requirement for a prescription. The website prominently displayed the Complainant's MOUNJARO trademark at the top of every page. A copyright notice that states "© 2024, Mounjaro Kuwait Powered by Shopify" was reproduced at the bottom of each page. Third-party brand pharmaceutical products directly competing with the Complainant's products were also on sale on the website.

#### **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 contends that the disputed domain name is confusingly similar to its highly distinctive trademark MOUNJARO, despite its combination with the geographical term "kuwait".

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name for the following reasons: (i) the Respondent is not commonly known by the disputed domain name; (ii) the Respondent has not been authorized by the Complainant to use the disputed domain name; (iii) the Respondent has not used the disputed domain name in connection with any bona fide offering of goods or services, nor is the Respondent making any legitimate noncommercial use of the disputed domain name. On the contrary, the Respondent is using the disputed domain name to direct Internet traffic to a website that sells either counterfeit or grey market versions of the Complainant's MOUNJARO brand product without a prescription, without disclosing the Respondent's lack of a relationship with the Complainant.

Lastly, the Complainant argues that the Respondent has registered and used the disputed domain name in bad faith as, according to the Complainant, the Respondent knowingly registered the disputed domain name to use such to attract and redirect web traffic to a website purporting to sell MOUNJARO products without a prescription, which the Complainant maintains is required for the purchase of the Complainant's

MOUNJARO products, and without identifying the Respondent's identity or lack of relationship to the Complainant. In addition, the Complainant argues that the Respondent has provided false or misleading contact information in the Whois, which constitutes registration in bad faith.

## **B. Respondent**

The Respondent did not reply to the Complainant's contentions

## **6. Discussion and Findings**

According to paragraph 4(a) of the Policy, a complainant must assert and prove each of the following:

- (i) the domain name registered by the respondent is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (ii) the respondent has no rights or legitimate interests in respect of the domain name; and
- (iii) the domain name registered by the respondent has been registered and is being used in bad faith.

### **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.

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 "kuwait") 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.

Indeed, based on the information submitted by the Complainant, the Complainant has not granted the Respondent an authorization to use its trademark within the disputed domain name. Moreover, there is no evidence indicating that the Respondent is commonly known by the disputed domain name.

UDRP panels have recognized that resellers, distributors, or service providers using a domain name containing the complainant's trademark to undertake sales or repairs related to the complainant's goods or services may be making a bona fide offering of goods and services and thus have a legitimate interest in such domain name (section 2.8 of the [WIPO Overview 3.0](#)). Outlined in the "Oki Data test" (*Oki Data Americas Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#)), the following cumulative requirements will be applied in the specific conditions of a UDRP case: (i) the respondent must actually be offering the goods or services at issue; (ii) the respondent must use the site to sell only the trademarked goods or services; (iii) the site must accurately and prominently disclose the registrant's relationship with the trademark holder; and (iv) the respondent must not try to "corner the market" in domain names that reflect the trademark.

In the present case, the Respondent is using the website to which the disputed domain name resolves to sell goods of competitors of the Complainant alongside the Complainant's branded product, and the website does not feature any disclaimer concerning the (lack of) relationship between the Respondent and the Complainant. By failing to accurately disclose the relationship, or rather lack thereof with the Complainant, the Respondent conveyed the false impression that the Respondent is affiliated or authorized by the Complainant itself, where this is not the case. The conditions of the Oki Data test are not satisfied.

Furthermore, the composition of the disputed domain name, combining the Complainant's trademark with a geographic term, is particularly apt to suggest sponsorship or endorsement. [WIPO Overview 3.0](#), section 2.5.1.

Finally, panels have accepted that selling prescription drugs without a prescription requirement does not constitute a bona fide offering of goods and therefore does not confer legitimate rights or legitimate interests (see *CVS Pharmacy, Inc. v. John, Ourice*, WIPO Case No. [D2022-0548](#), *Obagi Medical Products, Inc., a.k.a. OMP, Inc. v. R Dizon*, WIPO Case No. [D2017-0916](#) and *Eli Lilly and Company v. Muhammad Shoab*, WIPO Case No. [D2023-5157](#)).

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 notes that the trademark MOUNJARO of the Complainant has been widely used before the registration of the disputed domain name. The Respondent used the Complainant's trademark by displaying images of the MOUNJARO products, accompanied with the mention "MOUNJARO KUWAIT" on its website accessible through the disputed domain name. Therefore, the Panel accepts that the Respondent was aware of the existence of the Complainant and of its MOUNJARO trademark at the time of the registration of the disputed domain name. Accordingly, the Panel finds that the disputed domain name was registered in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Under paragraph 4(b)(iv) of the Policy, the use of a disputed domain name to intentionally attempt to attract, for commercial gain, Internet users to a 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 a website or location or of a product or service on the website or location, amounts to evidence of registration and use in bad faith.

The Respondent used the disputed domain name to resolve to a website displaying in a prominent way the Complainant's trademark and packaging, and a copyright notice that states "© 2024, Mounjaro Kuwait ...". Such use was apt to create the false impression that the Respondent's website was operated or endorsed by the Complainant. Consequently, by using the disputed domain name in such a manner, the Respondent intentionally attempted to attract Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to the source and affiliation of its website. Such behavior constitutes use in bad faith under paragraph 4(b)(iv) of the Policy.

Furthermore, the Respondent has been involved in two other UDRP cases regarding domain names with a very similar composition, namely a combination of the Complainant's trademark MOUNJARO (or a misspelling thereof) with a term referring to Kuwait, namely <mounjarokw.com> and <mounajrokw.com> (*Eli Lilly and Company v. Mounjaro Admin, Mounjaro Kuwait*, WIPO Case No. [D2023-3670](#) and *Eli Lilly and Company v. Mounjaro Admin, Mounjaro Kuwait*, WIPO Case No. [D2024-3306](#)). According to paragraph 4(b)(ii) of the Policy, registration of a domain name to prevent the owner of the trademark from reflecting the mark in a corresponding domain name is indicative of bad faith registration and use, provided the Respondent has engaged in a pattern of such conduct. The Panel finds that in the present case, the Respondent has engaged in a pattern of registering domain names reproducing the Complainant's trademark, within the meaning of 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 <mounjarokuwait.com> be transferred to the Complainant.

*/Anne-Virginie La Spada/*

**Anne-Virginie La Spada**

Sole Panelist

Date: February 3, 2025