

ADMINISTRATIVE PANEL DECISION

Eli Lilly and Company v. Domain Administrator, NameSilo, LLC
Case No. D2024-5049

1. The Parties

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

Respondent is Domain Administrator, NameSilo, LLC, United States.

2. The Domain Name and Registrar

The disputed domain name <mounjaroukbuy.com> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 6, 2024. On December 9, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 9, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name that differed from the named Respondent (Redacted for Privacy, See PrivacyGuardian.org) and contact information in the Complaint. The Center sent an email communication to Complainant on December 10, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on December 11, 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 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. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on January 2, 2025.

The Center appointed Jeffrey D. Steinhardt as sole panelist in this matter on January 16, 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

Complainant is one of the world's largest pharmaceutical companies. Complainant recently won regulatory approval in various countries for its MOUNJARO brand product for use in connection with injectable pharmaceutical products for the treatment of type 2 diabetes, generating the equivalent of billions of United States dollars in revenues.

Complainant owns registrations in many countries for its MOUNJARO mark, including for example: United States Trademark Reg. No. 6,809,369, registered on August 2, 2022 in International Class 5; United States Trademark Reg. No. 7,068,463, registered on May 30, 2023 in International Class 44; and United Kingdom Trademark registration No. UK00003608193 registered on July 16, 2021 in International Class 44.

The disputed domain name was registered on July 31, 2024. The disputed domain name resolves to a website prominently displaying Complainant's product logo and purporting to offer for sale Complainant's MOUNJARO product, along with offering other pharmaceutical products in direct competition with Complainant.

5. Parties' Contentions

A. Complainant

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

Notably, Complainant contends that Respondent registered the disputed domain name utilizing a privacy-shielding service to direct Internet traffic 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 (and therefore a prescription cannot be legally obtained), while also selling competitive third-party products via the website; Respondent carries on these activities while failing to disclose Respondent's lack of a relationship with Complainant.

Complainant avers that the website associated with the disputed domain name exacerbates confusion by its unauthorized use of Complainant's mark and MOUNJARO logo in the header of every page of the site, as well as its unauthorized use of Complainant's official marketing images of the MOUNJARO brand auto-injector pens.

Complainant also contends that Respondent's use of the disputed domain name is not justified as a bona fide offering of goods because Respondent purports to offer Complainant's goods but appears to offer gray market or otherwise potentially counterfeit goods and that Respondent purports to offer MOUNJARO brand product while accepting billing details from over 200 jurisdictions. Because the product is not currently available for worldwide distribution and requires a prescription, it is clear that the goods offered by Respondent are either gray market goods, counterfeit, or otherwise unauthorized under applicable national regulations.

Complainant also notes that Respondent fails to accurately disclose its relationship (or lack thereof) with Complainant - the website lacks identifying information outside of a non-identifying copyright statement, a non-descript email address. Complainant further provides evidence that Respondent provided inaccurate or false contacts in its registration details with the Registrar. Therefore, Complainant contends that Respondent

does not have any rights or legitimate interests in the disputed domain name, and that Respondent registered and is using the disputed domain name in bad faith.

B. Respondent

Respondent did not reply to 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 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.

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, "ukbuy") may bear on assessment of the second and third elements, the Panel finds the addition of such terms 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 paragraph 4(a) of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which 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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted 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.

Panels have held that the use of a domain name for illegitimate or illegal activity (here, alleged sale of counterfeit goods or pharmaceuticals without required prescriptions or in violation of national pharmaceutical registration requirements), can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel finds that the second element of Policy paragraph 4(a) has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for 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 registration and use of a domain name in bad faith.

In the present case, the Panel notes that the disputed domain name resolves to a website prominently displaying Complainant's product logo and purporting to offer for sale Complainant's MOUNJARO product, along with offering other pharmaceutical products in direct competition with Complainant. Therefore, Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with Complainant's mark, which clearly evidences bad faith under paragraph 4(b)(iv) of the Policy.

Panels have held that the use of a domain name for illegitimate or illegal activity (here, alleged sale of counterfeit goods or pharmaceuticals without required prescriptions or in violation of national pharmaceutical registration requirements) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds that Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel finds that Respondent's provision of possible incorrect registration information and failure to respond to the Complaint under the circumstances of this proceeding also evidence bad faith.

The Panel finds that Complainant has established the third element of paragraph 4(a) 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 <mounjaroukbuy.com> be transferred to Complainant.

/Jeffrey D. Steinhardt/

Jeffrey D. Steinhardt

Sole Panelist

Date: January 30, 2025