

ADMINISTRATIVE PANEL DECISION

Eli Lilly and Company v. Arthur Silva
Case No. D2024-5192

1. The Parties

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

The Respondent is Arthur Silva, Venezuela (Bolivarian Republic of).

2. The Domain Name and Registrar

The disputed domain name <comprarmounjaro.com> is registered with 123-Reg Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 17, 2024. On December 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 18, 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 (Registration Private, Domains by Proxy, LLC, DomainsByProxy.com) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 23, 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 23, 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 30, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 19, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 23, 2025.

The Center appointed Andrea Cappai as the sole panelist in this matter on January 28, 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

Eli Lilly and Company, a corporation organised under the laws of the State of Indiana, United States of America, has its principal place of business in Indianapolis. A leading pharmaceutical company, it manufactures and distributes pharmaceutical products globally.

The Complainant holds numerous trademark registrations for MOUNJARO across various jurisdictions, including:

i. United States of America

- Registration number: 6809369
- Registration date: August 2, 2022

ii. European Union

- Registration number: 018209187
- Registration date: September 8, 2020

iii. Brazil

- Registration number: 919475787
- Registration date: November 24, 2020

In addition, the Complainant owns multiple registrations for the MOUNJARO logo in various countries.

The Complainant maintains an online presence linked to the MOUNJARO trademark and has operated a website under the domain <mounjaro.com> since its registration.

The disputed domain name was registered on September 25, 2024, and the address provided by the Respondent is in Venezuela (Bolivarian Republic of). The website to which it resolves purports to offer the Complainant's goods for sale as a "Mounjaro Distributor [in] Brazil" and prominently features the MOUNJARO 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 contends that the disputed domain name is confusingly similar to its distinctive trademark. The Complainant claims trademark rights dating back to November 5, 2019, when it filed for registration with the United States Patent and Trademark Office. The MOUNJARO product was launched in June 2022 and, according to the Complainant, achieved significant commercial success, generating nearly USD 280 million in revenue by the end of 2022.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. It asserts that the Respondent is neither commonly known by the disputed domain name nor making a bona fide offering of goods or services. The Complainant alleges that the Respondent falsely claims to be a "Mounjaro Distributor in Brazil" while, in reality, likely offering unauthorised or counterfeit products. The

Complainant states that MOUNJARO-branded products are not available for sale in Brazil and that the Respondent's website misleads consumers by warning against unreliable sources while simultaneously claiming its own sales are "authentic and safe." Furthermore, the Complainant refers to *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#), arguing that the Respondent does not meet the conditions for legitimate use under the Policy.

The Complainant further claims that the disputed domain name was registered and is being used in bad faith. It cites a prior panel decision recognising MOUNJARO as a distinctive and widely known trademark, arguing that the Respondent could not have registered the disputed domain name without knowledge of the Complainant's rights. According to the Complainant, the Respondent deliberately seeks to exploit the trademark's reputation for commercial gain by misleading users into believing that the Respondent's website is affiliated with the Complainant. The Complainant also asserts that the Respondent's address is fictitious and that its unauthorised use of the MOUNJARO mark could pose a risk to consumer health by exposing users to unregulated or counterfeit pharmaceuticals.

Based on these arguments, the Complainant submits that the Respondent's actions violate the Policy and requests the transfer of the disputed domain name.

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.

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, "comprar", 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 recognised 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.

There is no evidence to suggest that the Respondent possesses any rights or legitimate interests in the disputed domain name. The Respondent is neither commonly known by the disputed domain name nor engaged in any bona fide offering of goods or services, legitimate noncommercial endeavour, or fair use.

Moreover, the Respondent's activities do not satisfy the criteria set forth in *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#), which may permit the use of a mark in a domain name without the owner's consent to undertake sales or repairs related to the complainant's goods and services. In this instance, the Respondent registered the disputed domain name through a privacy service, directs users to a site purporting to sell grey-market or potentially counterfeit versions of the Complainant's product in Brazil, and falsely presents itself as an authorised seller without disclosing its lack of affiliation.

MOUNJARO products are not yet available in Brazil, yet the Respondent offers them without requiring a prescription, funneling prospective buyers through WhatsApp. Previous panels have concluded that promoting prescription-only products without appropriate safeguards, or in jurisdictions where they remain unapproved, undermines any claim to rights or legitimate interests in the disputed domain name.

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.

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. In the present case, the Panel observes that the Complainant's MOUNJARO product has enjoyed significant commercial success, underpinned by extensive efforts to secure approval and launch in various jurisdictions. Such evidence strongly indicates that the mark is widely recognised, an assessment that has also been echoed in previous panel decisions. Even absent this prior recognition, the Respondent's establishment of a website at the disputed domain name, where the Complainant's MOUNJARO trademark is prominently used, demonstrates a deliberate intention to target the Complainant's rights.

The Respondent's website employs the MOUNJARO name, logo, and other protected materials without authorisation, thereby creating a likelihood of confusion and misleading consumers into presuming an official affiliation. In addition, the Respondent has concealed its identity and provided a false address, while apparently offering grey market or counterfeit pharmaceuticals. Such conduct not only infringes the Complainant's trademark rights but also poses a serious risk to public health by potentially inducing consumers to purchase unapproved or unauthorised prescription medication.

Moreover, the Respondent appears to be capitalising on a transitional period in Brazil, where MOUNJARO has been approved for sale but is not yet commercially available, thereby profiting from consumer confusion and the Complainant's goodwill. Taken together with the other circumstances described above, this exploitative behaviour demonstrates bad faith registration and use.

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 <comprarmounjaro.com> be transferred to the Complainant.

/Andrea Cappai/

Andrea Cappai

Sole Panelist

Date: February 4, 2025