

ADMINISTRATIVE PANEL DECISION

Eli Lilly and Company v. illuminati zone
Case No. D2024-5217

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 illuminati zone, United States.

2. The Domain Name and Registrar

The disputed domain name <forweightlossmounjaro.com> is registered with Hostinger Operations, UAB (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 18, 2024. On December 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 20, 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 Admin, Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 21, 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 amended 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 January 6, 2025. In accordance with the Rules, paragraph 5, the due date for Response was January 26, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 27, 2025.

On February 6, 2025, the Respondent indicated that it was ready to negotiate a transfer. On the same day, the Center indicated to the Parties that if they wished to explore settlement options, the Complainant should submit a request for suspension by February 11, 2025. The Center did not receive any communication from the Complainant within the specified due date.

The Center appointed Nels T. Lippert as the sole panelist in this matter on February 24, 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 an American pharmaceutical company. The United States Food and Drug Administration approved the Complainant's MOUNJARO brand product for use in connection with injectable pharmaceutical products for the treatment of type 2 diabetes on May 13, 2022. The Complainant launched the product in June 2022 and by the end of 2022, the product had produced nearly USD 280 million in revenue worldwide. The Complainant's third quarter 2024 financial report announced revenue of more than USD 8 billion.

The Complainant owns numerous trademark registrations of the MOUNJARO mark, including:

- European Union Trademark No. 018209187 for MOUNJARO, registered on September 8, 2020, in International Class 5;
- United States Trademark No. 6809369 for MOUNJARO, registered on August 2, 2022, in International Class 5; and
- United States Trademark Registration No. 7068463 for MOUNJARO, registered on May 30, 2023, in International Class 44.

In addition, the Complainant owns at least ninety (90) trademark registrations in sixty (60) countries for the MOUNJARO mark or its foreign language equivalents.

The Complainant has also owned the <mounjaro.com> domain name since October 21, 2019, which it uses to advertise and provide information regarding its MOUNJARO brand product

The disputed domain name was registered on April 12, 2024, and resolves to a website that offers the Complainant's MOUNJARO brand product without an apparent need for a prescription and in jurisdictions in which the product has not been legally approved for distribution, while also offering competing products.

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 it has rights in the mark MOUNJARO and that the disputed domain name is confusingly similar to this mark. The Complainant points out that the disputed domain name incorporates the MOUNJARO mark in its entirety and only differs by the addition of the descriptive phrase "for weight loss", which does not affect the confusing similarity. The Complainant contends that the Respondent lacks a right or legitimate interest in the disputed domain name. The Complainant claims to have found no evidence that the Respondent has been commonly known by the disputed domain name.

Furthermore, the Complainant contends that the Respondent is not using the disputed domain name in connection with a bona fide offering of goods and services or making legitimate noncommercial or fair use of the disputed domain name. Instead, the Complainant points out that the Respondent uses the disputed domain name to direct Internet traffic to a website that offers the Complainant's MOUNJARO brand product without an apparent need for a prescription and in jurisdictions in which the product has not been legally approved for distribution, while also offering competing products.

The Complainant notes that the Respondent's website fails to meet the Oki Data test since: (i) the Respondent is not actually offering MONJARO brand products since they are offered for sale in jurisdictions where this product is not authorized for sale and it therefore appears to offer gray market or even counterfeit goods; (ii) the Respondent also offers competing third-party products, which are marketed and directly compete against the Complainant's MOUNJARO brand product; and (iii) the Respondent fails to accurately disclose any relationship with the Complainant as well as any identifying information, such as a business name or a specific physical address. Finally, the Complainant notes that the Respondent is not a licensee of the Complainant and has not received any permission or consent from the Complainant to use the MOUNJARO mark.

The Complainant further contends that the Respondent is using the Complainant's MOUNJARO mark to drive Internet traffic to its website under the disputed domain name to profit from the sale of gray market or otherwise counterfeit products, as well as competing products while concealing its identity. Furthermore, the Complainant claims that the use of the disputed domain name to offer prescription-only products without any apparent requirement for a prescription or in jurisdictions where prescriptions are otherwise not yet available further supports a finding of bad faith. In addition, the Complainant notes that the Respondent's use of the MOUNJARO mark in the disputed domain name is potentially harmful to the health of many unsuspecting consumers who may purchase products advertised through the Respondent's website under the mistaken impression that they are dealing with the Complainant or an authorized distributor of the Complainant and, therefore, will be receiving safe and effective drugs approved by health authorities around the world.

B. Respondent

Apart from its email communication dated February 6, 2025 as described under section 4, the Respondent did not formally reply to the Complainant's contentions.

6. Discussion and Findings

As noted above, the Respondent did not respond to the Complainant's allegations. Under the Rules, paragraphs 5(f) and 14(a), the effect of a default by the Respondent is that, in the absence of exceptional circumstances, the Panel shall proceed to a decision on the basis of the Complaint. The Panel does not find any exceptional circumstance in this case noting the Respondent simply indicated it was ready to negotiate a transfer.

Paragraph 4(a) of the Policy provides that in order to divest a respondent of a domain name, a complainant must demonstrate each of the following:

- (i) The domain name 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 has been registered and is being used in bad faith.

Under paragraph 15(a) of the Rules, "[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

In this case, the Panel finds that the Respondent has failed to rebut any of the reasonable factual assertions that are made and supported by evidence submitted by the Complainant. By failing to respond formally, the Respondent has failed to offer the Panel any of the types of evidence set forth in paragraph 4(c) of the Policy or otherwise, from which the Panel might conclude that the Respondent has any rights or legitimate interests in the disputed domain name.

Moreover, the Respondent has failed to provide any information or reasoning that might rebut the Complainant's arguments that the Respondent has acted 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, "for weight loss", 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.

Furthermore, it is well established that the applicable Top-Level Domain ("TLD") in a domain name is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.

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.

Panels have held that the use of a domain name for illegal activity here, claimed as applicable to this case: sale of possible counterfeit goods or illegal pharmaceuticals, or other types of fraud can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Here, the Panel finds that the Complainant has provided convincing evidence that the Respondent uses the disputed domain name to offer for sale competing third party products, has failed to accurately disclose its lack of relationship with the Complainant and is offering MOUNJARO products in jurisdictions where it is not legally available, all of which support a finding of lack of rights or legitimate interests in the disputed domain name. The Panel further finds that the Respondent does not use the disputed domain name in connection with a bona fide offering of goods or services and has not made a legitimate noncommercial or fair use of 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.

In the present case, the Panel notes that the Respondent intentionally attempts to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's MOUNJARO mark. As noted above, the disputed domain name is confusingly similar to the MOUNJARO mark. In addition, as also discussed above, the Respondent uses the disputed domain name for a website on which it offers the Complainant's MOUNJARO brand product without an apparent need for a prescription and in jurisdictions in which the product has not been legally approved for distribution, while also offering competing products and without a disclaimer clarifying the lack of relationship between the Respondent and the Complainant. These circumstances, in combination with the Respondent's clear absence of rights or legitimate interests in the disputed domain name, support the Panel's finding of 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.

Panels have held that the use of a domain name for illegal activity here claimed as applicable to this case: sale of possible counterfeit goods or illegal pharmaceuticals or other types of fraud 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 <forweightlossmounjaro.com> be transferred to the Complainant.

/Nels T. Lippert /

Nels T. Lippert

Sole Panelist

Date: March 10, 2025