

ADMINISTRATIVE PANEL DECISION

Eli Lilly and Company v. Site Ground
Case No. D2024-5221

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 Site Ground, United States.

2. The Domain Name and Registrar

The disputed domain name <buymounjaronow.com> is registered with Global Domain Group LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 19, 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 confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 3, 2025. In accordance with the Rules, paragraph 5, the due date for Response was January 23, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 27, 2025.

The Center appointed Ik-Hyun Seo as the sole panelist in this matter on January 31, 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 international pharmaceutical company. The mark MOUNJARO is used as the brand name for an injectable pharmaceutical product that the Complainant developed for the treatment of type 2 diabetes. The Complainant obtained approval of the MOUNJARO product from the United States Food and Drug Administration on May 13, 2022, and launched the product in June 2022. Further, the United States Food and Drug Administration has approved MOUNJARO brand product for distribution in various formats in various countries around the world including in Australia, China, Denmark, Germany, India, Japan, Kuwait, Norway, Oman, Sweden, the Netherlands (Kingdom of the), and the United Kingdom. By the end of 2022, the product produced nearly USD 280 million of revenues worldwide. The Complainant owns a number of trademark registrations for the MOUNJARO mark including the United States Trademark Registration Number 6,809,369 registered on August 2, 2022, European Union Trademark Registration Number 018209187 registered on September 8, 2020, and the Hong Kong, China Trademark Registration Number 305559247 registered on July 16, 2021.

The Respondent appears to be an entity with an address in the United States.

The disputed domain name was registered on September 30, 2024, and resolves to a website offering various pharmaceutical products for sale including the Mounjaro brand product.

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 the MOUNJARO mark in which the Complainant has rights since it is composed of the MOUNJARO mark and the descriptive terms "buy" and "now".

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name and confirms that it has not authorized or licensed rights to the Respondent in any respect. The Complainant contends that the disputed domain name advertises pharmaceutical products for sale, including the Mounjaro brand product, apparently without the need for a valid prescription, and that as the Complainant's Mounjaro product is only available for sale in a limited number of jurisdictions, the Respondent is surely selling gray market or counterfeit goods. The Complainant also contends that the website at the disputed domain name offers for sale competing third party products, and therefore the second element of the Oki Data test is not satisfied. In addition, the Complainant contends that the Respondent fails to accurately disclose its relationship (or lack thereof) with the Complainant, which leads to Internet users falsely believing that the Respondent's website is the Complainant's official website or that the Respondent is an authorized distributor of the Mounjaro brand product.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. The Complainant contends that the Complainant filed an application for the MOUNJARO mark in the United States on November 5, 2019, and that the Complainant has extensively marketed the Mounjaro product in the United States and other countries, so that the mark is widely recognized worldwide. Therefore, the Complainant contends, the Respondent cannot have registered the disputed domain name without knowing the Complainant and its rights in the mark, especially considering the Respondent's sale of the Complainant's own Mounjaro brand product. The Complainant also contends that the Respondent is using the Complainant's mark to drive Internet traffic to its website under the disputed domain name in order to profit from the sale of competitive products, all while concealing its identity, which constitutes bad faith. Further, the Complainant contends that the Respondent's use of the Complainant's trademarks and copyright-protected images mislead users into believing that there is an association between the

Complainant and the website, and serves as evidence of an intentional attempt to attract Internet users to the disputed domain name for commercial gain in bad faith by creating a likelihood of confusion with the MOUNJARO mark. Lastly, the Complainant contends that the Respondent's use of the Complainant's mark 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 obtaining the products from 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

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, “buy” and “now” – 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 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.

The Complainant claims that the MOUNJARO branded goods offered on the website are potential counterfeit or gray market goods, but has submitted no evidence to support this claim. Even so, the Panel finds that the disputed domain name is certainly used for illegitimate/illegal activity, since the Respondent is offering to sell goods that require a prescription without a valid prescription. Such use can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Further, even if the MOUNJARO branded goods were genuine, the use of the disputed domain name would fail the “Oki Data test”. *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#). Panels have recognized that resellers and distributors using a domain name containing the brand owner’s trademark to undertake sales of the brand owner’s goods may be making bona fide offering of goods and services and thus have a legitimate interest in such domain name, as long as the following conditions are met under the “Oki Data test”:

- (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.

Here, the Respondent fails on conditions (ii) and (iii) as goods from a number of other brands are offered on the website at the disputed domain name, and further, the website does not provide any disclaimer on the nature of the relationship between the Respondent and the Complainant. Therefore, the Respondent does not have rights or legitimate interests to the disputed domain name and the Respondent’s use of the disputed domain name cannot fall under fair use.

Moreover, UDRP panels have found that domain names identical to a complainant’s trademark carry a high risk of implied affiliation, even where a domain name consists of a trademark plus an additional term. [WIPO Overview 3.0](#), section 2.5.1. The additional terms “buy” and “now” certainly suggest sponsorship or endorsement by the trademark owner, which is reinforced by the impersonating content found on the website to which the disputed domain name resolves as assessed above.

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 clearly targeted the Complainant in registering the disputed domain name based on the manner in which the disputed domain name was used. The Panel finds that in using the disputed domain name, the Respondent intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant’s mark.

Panels have also held that the use of a domain name for illegal activity – here, sale of pharmaceuticals requiring a prescription without a valid prescription – constitute 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 <buymounjaronow.com> be transferred to the Complainant.

/Ik-Hyun Seo/

Ik-Hyun Seo

Sole Panelist

Date: February 14, 2025