

## **ADMINISTRATIVE PANEL DECISION**

Eli Lilly and Company v. Danilo Tome Gomes, Flavio Nascimento  
Case No. D2024-5333

### **1. The Parties**

The Complainant is Eli Lilly and Company, United States of America (“United States”), represented by Faegre Baker Daniels LLP, United States.

The Respondents are Danilo Tome Gomes (“First Respondent”) and Flavio Nascimento (“Second Respondent”), Brazil, (together the “Respondents”).

### **2. The Domain Names and Registrars**

The disputed domain names <desafiomounjaroemcasa.com>; <mounjaronatural.online> <mounjaronatural.store> are registered with PDR Ltd. d/b/a PublicDomainRegistry.com and <mounjaronatural.site> is registered with NameCheap, Inc. (together the “Registrars”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 29, 2024. On December 30, 2024, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On December 30 and 31, 2024, the Registrars transmitted by email to the Center their verification responses disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Redacted for Privacy and Domain Admin ) and contact information in the Complaint.

The Center sent an email communication to the Complainant on January 3, 2025, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrars, requesting the Complainant to either file separate complaint(s) for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. The Complainant filed an amended Complaint on January 7, 2025.

The Center verified that the Complaint, together with the amended 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”).

On January 7, and 16, 2025, the Center received emails from an email address that has the same extension as the Second Respondent's email address.

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondents of the Complaint, and the proceedings commenced on January 16, 2025. In accordance with the Rules, paragraph 5, the due date for Response was February 5, 2025. On February 6, 2025, the Center informed the parties that it would proceed with panel appointment.

The Center appointed Ada L. Redondo Aguilera as the sole panelist in this matter on February 11, 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 in this case is Eli Lilly and Company, a corporation organized under the laws of the United States. The Complainant is one of the world's largest providers of pharmaceutical products.

The Complainant is the owner of the trademark MOUNJARO and in this case presented evidence of the following trademarks issued by the United States Patent and Trademark Office ("USPTO") in the United States and by the Brazilian National Institute of Industrial Property ("INPI") in Brazil:

1. Registration Number 6,809,369 for MOUNJARO registered on August 2, 2022, before the USPTO;
2. Registration Number 919475787 for MOUNJARO registered on November 24, 2020, before the INPI.

The Complainant also has an Internet presence with their official website for MOUNJARO products and services <mounjaro.com> registered on October 21, 2019.

The United States Food and Drug Administration announced its approval of the MOUNJARO brand product for use in connection with injectable pharmaceutical products for the treatment of type 2 diabetes on May 13, 2022.

In Brazil, the product is currently undergoing an approval process and is scheduled for launch in that country. On September 25, 2023, the Brazilian National Health Surveillance Agency (ANVISA) authorized the MOUNJARO brand product. However, the product is not yet available for distribution or sale. ANVISA has issued warnings regarding the sale of potentially dangerous counterfeits, as the actual product is not yet available in Brazil.

The disputed domain names were registered as follows: <desafiomounjaroemcasa.com> on July 31, 2024; <mounjaronatural.online> on May 2, 2024; <mounjaronatural.store> on June 27, 2024; and <mounjaronatural.site> on June 6, 2024.

The disputed domain names except for <mounjaronatural.store> resolve to websites marketing competitive products, purporting to be natural versions of Complainant's product. The disputed domain name <mounjaronatural.store> redirects to a website purportedly offering a weight loss 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 names.

Notably, the Complainant contends that all of the disputed domain names are confusingly similar to its MOUNJARO trademark since all of them include the Complainant's trademark in its entirety, with a combination of generic terms.

Also, the Complainant argues that the Respondents have no rights or legitimate interests concerning the disputed domain names, and finally, that the Respondents registered and are using the disputed domain names in bad faith. The Complainant requests the transfer of the disputed domain names.

## **B. Respondents**

The Respondents did not submit a formal response to the Complainant's contentions, although an email address with the same extension as the Second Respondent sent informal communications to the Center on January 7 and January 16, 2025, expressing literally the following "Hello, we appreciate the warning and want to inform you that we have already removed the requested page. This page belongs to one of our subscribers. We are contacting this subscriber to explain what happened and will then proceed with deactivating his registration for violating our policies.

## **6. Discussion and Findings**

### **6.1. Preliminary Matters**

Given that the Complaint was sent to the relevant email addresses disclosed by the Registrar, the Panel considers that this act satisfies the requirement in paragraph 2(a) of the Rules to "employ reasonably available means calculated to achieve actual notice". Accordingly, the Panel considers that it can proceed to determine the Complaint based on the statements and documents submitted by the Complainant as per paragraph 15(a) of the Rules and to draw inferences from the Respondents' failure to file a proper response and provide evidence in the case. While the Respondents' failure to file a proper Response does not automatically result in a decision in favor of the Complainant, the Panel may draw appropriate inferences from the Respondents' default. The applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence", and the Panel can draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)).

### **6.2. Consolidation: Multiple Respondent**

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the disputed domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain names registrants pursuant to paragraph 10(e) of the Rules.

The Respondents did not comment on the Complainant's request.

According to the paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder. In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See [WIPO Overview 3.0](#), section 4.11.2.

The Panel concludes that the Complainant has provided prima facie evidence of common control, which the Respondents, as the listed registrants, have not addressed or countered. Therefore, the request for consolidation is granted. Considering the Complainant's arguments as to the nature of the disputed domain names and the use of them, the Panel has accepted the consolidation request.

## **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 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 Panel finds the Complainant's trademark is recognizable within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

In the present case, the disputed domain names include the Complainant's trademark MOUNJARO together with other terms such as "desafio" and "natural" and "casa".

Although the inclusion of additional terms, here in English or Portuguese such as the above mentioned may bear on the 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 trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Additionally, it is well established that the generic Top-Level Domain "gTLD" is generally disregarded when considering whether a disputed domain name is confusingly similar to the trademark in which the complainant has rights. [WIPO Overview 3.0](#), section 1.11.1.

Therefore, 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. See [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 Respondents lack rights or legitimate interests in the disputed domain names. The Respondents have 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 names such as those enumerated in the Policy or otherwise.

In conclusion in this case, the Panel has not been presented with, or discovered, any evidence that (i) the Respondents have received a license or other permission to use the Complainant's trademarks in any way included any domain names incorporating their trademarks; (ii) the Respondents are not commonly known by the disputed domain names; (iii) the Respondents have acquired trademark rights to use the disputed domain names; or (iv) the Respondents are making legitimate noncommercial or fair use of the disputed domain names. Instead, the Respondents are using the disputed domain names to target the Complainant's trademark by offering to sell unauthorized, competitive products under the name "Mounjaro Natural" to

Brazilian consumers. The sites prominently boast that “Mounjaro Natural” or “Natural Mounjaro” contains a “4-ingredient formula that mimics the effect of the world’s most powerful pen” and otherwise suggest they will show users how to make “Mounjaro at home.” According to the evidence presented in this case, each of the websites displayed on the disputed domain names operates under the guise of “nutritionists” offering information in lengthy (and apparently AI-generated) videos. However, the videos eventually reveal that it is actually not possible to make such a product at home, as advertised up to that point. Instead, users are “bait-and-switched” as embedded links appear, and they are encouraged to follow them to sites that sell competitive products (which are promoted in the content of the videos as “Mounjaro Natural”). This activity confirms that the true purpose of the disputed domain names and all the content thereon is to draw in Internet users interested in procuring the Complainant’s product (which is not yet available in Brazil), “bait-and-switch” them, and market them infringing, illegitimate third-party products instead.

The Panel also finds that the Respondents have not rights or legitimate interest in the activities such as passing off or selling infringing goods as the Complainant’s by using Complainant’s MOUNJARO trademark within the four disputed domain names and on the products offered via the websites.

Panels have held that the use of a domain name for illegitimate activity or illegal activity such as sale of counterfeit goods or illegal pharmaceuticals products or impersonation/passing off, or other types of fraud as applicable in this case, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel finds that the Respondents have no plausible reason to register the disputed domain names other than to capitalize on the Complainant’s trademark and goodwill. Therefore, the Panel finds that the Respondents do not have any rights or legitimate interests in the disputed domain names.

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 that the disputed domain names are confusingly similar to the Complainant’s trademark and that the Complainant’ registration of the MOUNJARO trademarks, which predates the registrations of the disputed domain names. It is unlikely that the Respondents were unaware of the Complainant’s right to MOUNJARO trademark at the time of registering the disputed domain names.

Based on the evidence provided on the record, the Panel considers that the Respondents, by registering the disputed domain names confusingly similar to the Complainant’s well-known and widely used registered trademarks, is trading unfairly on the Complainant’s valuable goodwill established in such trademarks.

Also, the effect of such conduct on the part of the Respondents is to mislead Internet users and consumers into thinking that the Respondents are, in some way or another, connected to, sponsored by, or affiliated with the Complainant and its business; or that the Respondents’ activities are approved or endorsed by the Complainant. None of which the Panel can find, on the basis of the evidence provided on the record, is, in fact, the situation. Such misleading consequences, in the view of the Panel, are indicative of bad faith on the part of the Respondent. See *Columbia Insurance Company v. Pampered Gourmet*, WIPO Case No. [D2004-0649](#).

Again, in the absence of any explanation to the contrary by the Respondents, of which none is forthcoming on the record, the Panel agrees with the Complainant’s contention that the Respondents did not register and use the disputed domain names by chance; but, as noted above, appears to have been – or, at least, should have been – fully aware of the notoriety of the Complainant and its products.

Therefore, the Panel concludes that the disputed domain names were 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. See [WIPO Overview 3.0](#), section 3.2.1.

Additionally, the content of the websites connected to the disputed domain names, particularly the use of the Complainant's trademark, misleads users and serves as evidence of an intentional attempt to attract Internet users to the disputed domain names for commercial gain in bad faith by creating a likelihood of confusion with the Complainant's trademark.

The Respondents' sale of illegitimate products in Brazil under Complainant's trademark as well as the misinformation surrounding this sale (i.e. claiming its products offer all the same health benefits of Complainant's goods), is even more likely to cause confusion. Moreover, prior panels have determined that registering a domain name that is confusingly similar to a registered trademark by an entity that has no relationship to the mark is sufficient evidence to demonstrate opportunistic bad faith. See *Eli Lilly and Company v. Lilly Careers*, WIPO Case No. [D2016-0641](#).

In this case, the Panel is convinced by the Complainant's concern that the Respondents' use of its MOUNJARO Trademark in the disputed domain names is potentially harmful to the health of unsuspecting consumers. Accordingly, the Complainant's MOUNJARO brand product is only available on a physician's prescription and is manufactured, labeled, and sold in strict compliance with the health authority laws and regulations. Indeed, Brazilian physicians and ANVISA (the Brazilian health authority) have noted the presence of counterfeit products in Brazil and have attempted to raise awareness by issuing warnings that Complainant's product is not yet available and should not be purchased online due to the health concerns.

The Panel also finds that the evidence in this case, supports a finding of bad faith on the part of Respondents.

According to the Panels the use of a domain name for illegitimate activity or illegal activity here, is applicable to this case and constitute bad faith. This includes but is not limited do the sale of counterfeit goods or illegal pharmaceutical products, impersonation/passing off, or other types of fraud constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Having reviewed the record, the Panel finds the Respondents' registration and use of the disputed domain names 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 names <desafiomounjaroemcasa.com>; <mounjaronatural.online>; <mounjaronatural.site> and <mounjaronatural.store> be transferred to the Complainant.

*/Ada L. Redondo Aguilera/*

**Ada L. Redondo Aguilera**

Sole Panelist

Date: February 25, 2025