

## **ADMINISTRATIVE PANEL DECISION**

Eli Lilly and Company v. AL GUSTAVO, THE GREEN SOLUTION  
Case No. D2025-0953

### **1. The Parties**

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

Respondent is AL GUSTAVO, THE GREEN SOLUTION, Nigeria.

### **2. The Domain Name and Registrar**

The disputed domain name <mounjaro-pharmacy.com> (the “Domain Name”) is registered with Web Commerce Communications Limited dba WebNic.cc (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 7, 2025. On March 10, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On March 11, 2025, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Domain Admin, Whoisprotection.cc) and contact information in the Complaint. The Center sent an email communication to Complainant on March 12, 2025, 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 March 13, 2025.

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 March 14, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 3, 2025. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on April 7, 2025.

The Center appointed Dinant T. L. Oosterbaan as the sole panelist in this matter on April 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**

Complainant is a large pharmaceutical company headquartered in Indiana, United States. Complainant's products include an injectable, prescription-only medicine named and trademarked MOUNJARO, which is used in the treatment of type two diabetes. The MOUNJARO product is very successful and its sales revenue amounted in fiscal year 2024 to over USD 11 billion.

Complainant is the owner of numerous registrations for the trademark MOUNJARO in various jurisdictions throughout the world. Those registrations include United States trademark registration with 6809369 for the word mark MOUNJARO, registration date August 2, 2022.

In addition, Complainant owns the domain name <mounjaro.com>.

The Domain Name was registered on October 28, 2024.

Complainant has produced evidence that the Domain Name resolves to a website that appears to sell Complainant's MOUNJARO products in jurisdictions in which the product has not been legally approved for distribution (and therefore a prescription cannot be legally obtained) while also selling competitive third-party products.

The trademark registrations of Complainant were issued prior to the registration of the Domain Name.

#### **5. Parties' Contentions**

##### **A. Complainant**

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

Notably, Complainant contends that the Domain Name is highly similar to its MOUNJARO trademark because the Domain Name reproduces its MOUNJARO mark in full; and the addition of the word "pharmacy" does not eliminate the confusing similarity between the Domain Name and its trademark.

According to Complainant, Respondent has no rights or legitimate interests in the Domain Name. Complainant submits that there is no evidence that Respondent is commonly known by the Domain Name. In addition, Respondent is neither using the Domain Name in connection with a bona fide offering of goods or services, nor making a legitimate noncommercial or fair use of the Domain Name.

Complainant has not given Respondent permission, authorization, consent, or license to use its MOUNJARO mark to sell Complainant's MOUNJARO gray market or potentially counterfeit products in jurisdictions in which the product has not been legally approved for distribution. Despite this fact, the Domain Name resolves to a website enabling Respondent to cash in on the strength of Complainant's mark and the reputation of the product with which the mark is associated.

Complainant asserts that Respondent's use of the Domain Name is not justified by the principle that a mark may be used legitimately without its owner's consent to promote a bona fide offering of goods placed on the market by its owner. As outlined in *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#), and followed in many subsequent cases, this principle can only be invoked under the Policy if: (i) respondent is

actually offering the goods or services at issue; (ii) respondent uses the website to sell only the genuine trademarked goods or services; (iii) the website accurately discloses respondent's relationship with the trademark owner; and (iv) respondent must not try to corner the market in all domain names and thus deprive the trademark owner of reflecting its own mark in a domain name. If even one of these requirements is not met, Respondent fails the Oki Data test and has no rights or legitimate interests in the Domain Name. Complainant submits that Respondent fails to meet all of the Oki Data requirements and has no rights or legitimate interests in the Domain Name.

First, Respondent purports to offer Complainant's goods for sale but appears to offer gray market or otherwise potentially counterfeit goods. The MOUNJARO brand product is only available for sale in a limited number of jurisdictions. Despite this, when progressing through the ordering process of Respondent's website, users are permitted to enter billing and shipping information that correlates to multiple jurisdictions. Because the product is not available for worldwide distribution and requires a medical prescription to purchase regardless of jurisdiction, the above confirms that the goods offered by Respondent are either gray market goods or otherwise potentially counterfeit goods.

Second, Respondent offers for sale competing third-party products such as Ozempic and compounded Semaglutide, which directly compete against Complainant's MOUNJARO brand product.

Third, Respondent fails to accurately disclose its relationship (or lack thereof) with Complainant. The lack of any such statement or disclaimer, together with incorporation of Complainant's mark in the Domain Name and heavy use of Complainant's own marketing imagery and logos throughout the site, leads Internet users to falsely believe that Respondent's website is Complainant's official website.

Complainant also submits that the marketing of MOUNJARO brand product in jurisdictions where they are not legally available serves as evidence that Respondent lacks rights or legitimate interests in the Domain Name.

Complainant submits that the Domain Name was registered and is being used in bad faith. It contends that Respondent was obviously aware of its MOUNJARO trademark owing to the "blockbuster" success of the product and its associated media coverage worldwide.

Complainant submits that Respondent is using Complainant's mark to drive Internet traffic to its website under the Domain Name to profit from the sale of gray market or otherwise counterfeit products, all while concealing its identity. Prior panels have found that such actions constitute bad faith. The content of the website associated with the Domain Name, use of Complainant's trademark, color logo, and copyright-protected images mislead users into believing that there is an association between Complainant and Respondent's website and serves as further evidence of an intentional attempt to attract Internet users to the website under the Domain Name for commercial gain in bad faith by creating a likelihood of confusion. Lastly, Respondent's use of Complainant's trademark in the Domain Name is potentially harmful to the health of many unsuspecting consumers who may purchase products advertised through Respondent's website under the mistaken impression that they are dealing with Complainant or an authorized distributor of Complainant and, therefore, will be receiving safe and effective drugs approved by health authorities around the world. 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. Complainant concludes that there is a finding of bad faith on the part of Respondent.

## **B. Respondent**

Respondent did not reply to Complainant's contentions.

## 6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the Panel to “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”.

Paragraph 4(a) of the Policy requires that a complainant proves each of the following three elements to obtain an order that the disputed domain name should be transferred or cancelled:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) the respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used 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 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 MOUNJARO trademark is reproduced within the Domain Name. Accordingly, the Domain Name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds that the addition of the descriptive term “pharmacy” in the Domain Name does not prevent a finding of confusing similarity between the Domain Name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The generic Top-Level Domain “.com” is disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

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 Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the 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 Domain Name such as those enumerated in the Policy or otherwise.

Complainant has stated it has not licensed or otherwise permitted Respondent to make any use of its MOUNJARO trademark and that Respondent is not commonly known by the Domain Name. Based on the undisputed submission and evidence provided by Complainant, the Domain Name resolves to a website which uses Complainant's distinctive trademark, copies without authorization the look and feel of Complainant's website and appears to sell potentially counterfeit versions of Complainant's MOUNJARO brand product in jurisdictions in which the product has not been legally approved for distribution (and therefore a prescription cannot be legally obtained) while also selling competitive third-party products. Panels have held that the use of a domain name for illegal or fraudulent activity, here as claimed impersonation/passing off and the sale of illegal prescription drugs can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

With regard to the criteria set out in the Oki Data decision mentioned above, and as further discussed in section 2.8.1 of [WIPO Overview 3.0](#), the Panel accepts Complainant's submission that Respondent cannot lawfully be offering Complainant's MOUNJARO products. Firstly, Respondent cannot lawfully be offering Complainant's MOUNJARO product for purchase as the product is not licensed for sale in many countries and could not in any event be purchased without prescription. Secondly, the Panel finds that Respondent has used the Domain Name to sell goods other than those of Complainant. Thirdly, Respondent's website includes no prominent disclaimer disclosing Respondent relationship with Complainant, is not authorized by, or otherwise legitimately affiliated with Complainant.

Moreover, the composition of the Domain Name together with the construction of the website under the Domain Name are misleading and carry the risk of implied affiliation, which does not provide any indication as to how Respondent could possibly be seen as making a bona fide use of the Domain Name. Respondent is not making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert Internet users or to tarnish the trademark of Complainant. The Panel does not consider such use a bona fide offering of goods or services, nor a legitimate noncommercial or fair use of the Domain Name. Respondent is also not commonly known by the Domain Name nor has it acquired any trademark or service mark rights.

The Panel finds the second element of the Policy has been established.

### **C. Registered and Used in Bad Faith**

Pursuant to paragraph 4(b)(iv) of the Policy, there is evidence of registration and use of a domain name in bad faith in the event Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the trademark of Complainant as to the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service offered on Respondent's website or location.

The Panel finds that the Domain Name has been registered and is being used in bad faith. Noting the status of the MOUNJARO mark and the overall circumstances of this case, the Panel finds it more likely than not that Respondent knew or should have known Complainant's MOUNJARO mark. The registration of the Domain Name in awareness of the MOUNJARO trademark and in the absence of rights or legitimate interests amounts under these circumstances to registration in bad faith.

The Panel notes that the Domain Name resolves to a website which incorporates Complainant's trademark in its entirety, which copies without authorization the distinctive and invented MOUNJARO trademark of Complainant and the look and feel of Complainant's website, which indicates, in the circumstances of this case, that Respondent registered and used the Domain Name with the intention to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the trademarks of Complainant as

to the source, sponsorship, affiliation, or endorsement of its website or location or of a service on its website or location, which constitutes registration and use in bad faith pursuant to paragraph 4(b)(iv) of the Policy.

Having reviewed the record, the Panel finds Respondent's registration and use of the Domain Name constitutes bad faith under the Policy.

The Panel finds that 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 Domain Name, <mounjaro-pharmacy.com>, be transferred to Complainant.

*/Dinant T. L. Oosterbaan/*

**Dinant T. L. Oosterbaan**

Sole Panelist

Date: April 18, 2025