

## **ADMINISTRATIVE PANEL DECISION**

Eli Lilly and Company v. Myland Cattery  
Case No. D2025-1145

### **1. The Parties**

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

Respondent is Myland Cattery, U.S.

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

The disputed domain name <lillyzepboundonline.com> (the “Domain Name”) is registered with Eranet International Limited (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 19, 2025. On March 20, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On March 21, 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 (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to Complainant on March 24, 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 25, 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 26, 2025. In accordance with the Rules, paragraph 5, the due date for Response was April 15, 2025. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on April 16, 2025. Respondent sent email communications to the Center on April 16, 2025.

The Center appointed Kimberley Chen Nobles as the sole panelist in this matter on May 7, 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, founded in 1876, has been in the pharmaceutical industry for over 145 years, and has been involved with medical research and innovation, including medicines, pharmaceutical preparations and drugs.

Complainant owns numerous registered trademarks for the LILLY mark in the U.S. and other jurisdictions worldwide, including:

- U.S. trademark registration number 1,226,434 for the LILLY word mark, registered February 8, 1983, with a first use date of February 1, 1895;
- U.S. trademark registration number 4,478,467 for the LILLY word mark, registered February 4, 2014; and
- U.S. registered trademark number 5,141,667 for the LILLY word mark, registered February 14, 2017.

Complainant also owns registered trademark applications for the ZEPBOUND mark, including U.S. registered trademark registration number 7,288,373 for the ZEPBOUND word mark, registered on January 23, 2024, with a first use date of November 30, 2023. Complainant launched the ZEPBOUND product on December 5, 2023, and the product generated over one-hundred and seventy-five million dollars (USD 175,000,000.00) in revenue by the end of 2023.

In addition, Complainant owns and operates the domain name <lilly.com>, registered by Complainant on May 10, 1991, which is used to advertise and provide information regarding its company and its pharmaceutical products.

Complainant also owns and operates the domain name <zepbound.com>, which redirects to <zepbound.lilly.com>, registered on April 13, 2022, to advertise and provide information regarding its ZEPBOUND product.

The Domain Name was registered on January 28, 2025, and at the time of filing of the Complaint, redirected to a website that allegedly sold counterfeit or gray market versions of Complainant's products, offered along with competing, third party products, without a prescription in jurisdictions which the product has not been legally approved for distribution.

#### **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 (i) the Domain Name is confusingly similar to Complainant's trademarks; (ii) Respondent has no rights or legitimate interests in the Domain Name; and (iii) Respondent registered and is using the Domain Name in bad faith.

In particular, Complainant contends that it has trademark registrations for its LILLY and ZEPBOUND marks and that Respondent registered and is using the Domain Name with the intention to confuse Internet users looking for bona fide and well-known LILLY and ZEPBOUND products and services.

Complainant notes that it has no affiliation with Respondent, and that Respondent is posing as Complainant, by hosting a website that passes itself off as Complainant, featuring Complainant's copyrighted images and listings for Complainant's products, which are allegedly offered at a deep discount, and competing third-party's on the website to which the Domain Name resolves.

Complainant further contends that Respondent is using the Domain Name as a tool to exploit Complainant's reputation for its own commercial gain, and that Respondent has no rights or legitimate interests in the Domain Name. Further, Complainant contends that Respondent has acted in bad faith in acquiring and setting up the Domain Name, when Respondent clearly knew of Complainant's rights.

## **B. Respondent**

Respondent sent several email communications to the Center on April 16, 2025 but did not substantially reply to Complainant's contentions and offering to delete the Domain Name.

## **6. Discussion and Findings**

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name was registered and is being used in bad faith.

Section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") states that failure to respond to the complainant's contentions would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true.

Thus, although in this case, Respondent has failed to respond substantially to the Complaint, the burden remains with Complainant to establish the three elements of paragraph 4(a) of the Policy by a preponderance of the evidence.

### **A. Identical or Confusingly Similar**

Ownership of a trademark registration is generally sufficient evidence that a complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. See [WIPO Overview 3.0](#), section 1.2.1.

Complainant has provided evidence of its rights in the LILLY and ZEPBOUND trademarks, as noted above under section 4. Complainant has therefore proven that it has the requisite rights in the LILLY AND ZEPBOUND trademarks.

With Complainant's rights in the LILLY and ZEPBOUND trademarks established, the remaining question under the first element of the Policy is whether the Domain Name, typically disregarding the Top-Level Domain ("TLD") in which it is registered (in this case, ".com"), is identical or confusingly similar to Complainant's trademark. See, e.g., *B & H Foto & Electronics Corp. v. Domains by Proxy, Inc. / Joseph Gross*, WIPO Case No. [D2010-0842](#).

Here, the Domain Name is confusingly similar to Complainant's LILLY and ZEPBOUND trademarks. The LILLY and ZEPBOUND trademarks are recognizable in the Domain Name.

In particular, the Domain Name's inclusion of Complainant's LILLY and ZEPBOUND trademarks in their entirety, with an addition of the term "online" - after the LILLY AND ZEPBOUND marks, does not prevent a finding of confusing similarity between the Domain Name and the LILLY and ZEPBOUND trademarks.

Thus, the Panel finds that Complainant has satisfied the first element of the Policy.

## **B. Rights or Legitimate Interests**

Under paragraph 4(a)(ii) of the Policy, a complainant must make a prima facie showing that a respondent possesses no rights or legitimate interests in a disputed domain name. See, e.g., *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#). Once a complainant makes out such a prima facie showing, the burden of production shifts to the respondent, though the burden of proof always remains on the complainant. If the respondent fails to come forward with relevant evidence showing rights or legitimate interests, the complainant will have sustained its burden under the second element of the UDRP.

From the record in this case, it is evident that Respondent was, and is, aware of Complainant and its LILLY and ZEPBOUND trademarks, and does not have any rights or legitimate interests in the Domain Name. In addition, Complainant asserts that Respondent is not authorized to promote Complainant's goods or services and is not related to Complainant. Respondent is also not known to be associated with the LILLY and ZEPBOUND trademarks and there is no evidence showing that Respondent has been commonly known by the Domain Name.

In addition, Respondent has not used the Domain Name in connection with a bona fide offering of goods or services or a legitimate noncommercial or fair use. Rather, at the time of filing of the Complaint, Respondent has used the Domain Name to purportedly sell counterfeit or gray market versions of Complainant's products, along with competing, third party products, without a prescription in jurisdictions which the product has not been legally approved for distribution.

Such use by Respondent does not constitute a bona fide offering of goods or services or a legitimate noncommercial or fair use and cannot under the circumstances confer on Respondent any rights or legitimate interests in the Domain Name.

Moreover, the nature of the Domain Name, incorporating the entirety of Complainant's trademarks LILLY and ZEPBOUND, along with the term "online", cannot be considered fair use as it may suggest an affiliation with Complainant that does not exist. See [WIPO Overview 3.0](#), section 2.5.1.

Accordingly, Complainant has provided evidence supporting its prima facie claim that Respondent lacks any rights or legitimate interests in the Domain Name. Respondent has failed to produce countervailing evidence of any rights or legitimate interests in the Domain Name.

Thus, the Panel concludes that Respondent does not have any rights or legitimate interests in the Domain Name, and Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

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

The Panel finds that Respondent's actions indicate that Respondent registered and is using the Domain Name in bad faith.

Paragraph 4(b) of the Policy provides a non-exhaustive list of circumstances indicating bad faith registration and use on the part of a domain name registrant, namely:

"(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location."

The Panel finds that Complainant has provided ample evidence to show that registration and use of the LILLY and ZEPBOUND trademarks long predate the registration of the Domain Name. Complainant is also well established and known. Indeed, the record shows that Complainant's LILLY and ZEPBOUND trademarks and related products and services are widely known and recognized. Therefore, the Panel is of the view that Respondent was aware of the LILLY and ZEPBOUND trademarks when it registered the Domain Name. See [WIPO Overview 3.0](#), section 3.2.2.

The Panel thus finds that Respondent's awareness of Complainant's trademark rights at the time of registration suggests bad faith. See *Red Bull GmbH v. Credit du Léman SA, Jean-Denis Deletraz*, WIPO Case No. [D2011-2209](#); *Nintendo of America Inc v. Marco Beijen, Beijen Consulting, Pokemon Fan Clubs Org., and Pokemon Fans Unite*, WIPO Case No. [D2001-1070](#); and *BellSouth Intellectual Property Corporation v. Serena, Axel*, WIPO Case No. [D2006-0007](#).

Further, the composition of the Domain Name, which includes Complainant's LILLY and ZEPBOUND trademark and an additional term "online" suggests Respondent's actual knowledge of Complainant's rights in the LILLY and ZEPBOUND trademarks at the time of registration of the Domain Name and its effort to opportunistically capitalize on the registration and use of the Domain Name.

Moreover, Respondent registered and is using the Domain Name to confuse and mislead consumers looking for bona fide and well-known LILLY and ZEPBOUND products and services of Complainant or authorized partners of Complainant. In particular, at the time of filing of the Complaint, Respondent used the Domain Name in an attempt to direct Internet users looking for Complainant's products and services to its website by featuring Complainant and its LILLY and ZEPBOUND brand, including the use of LILLY and ZEPBOUND trademark, and purportedly offering counterfeit or gray market versions of Complainant's products, without a prescription in jurisdictions which the product has not been legally approved for distribution.

In addition, Respondent was also offering for sale, competing third-party products, through the use of the Domain Name. Therefore, by using the Domain Name, and then further to promote products that are in direct competition with Complainant, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's website by creating a likelihood of confusion with Complainant's LILLY and ZEPBOUND marks as to the source, sponsorship, affiliation, or endorsement of Respondent's website. All these actions may result in tarnishing Complainant's reputation and goodwill in the industry.

Accordingly, the Panel finds that Respondent registered and is using the Domain Name in bad faith and Complainant succeeds under the third element of paragraph 4(a) 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 <lillyzepboundonline.com> be transferred to Complainant.

*/Kimberley Chen Nobles/*

**Kimberley Chen Nobles**

Sole Panelist

Date: May 19, 2025