ARBITRATION
AND
MEDIATION CENTER

WIPO
WORLD
INTELLECTUAL PROPERTY
ORGANIZATION

ADMINISTRATIVE PANEL DECISION
Eli Lilly and Company v. Маргарита Генриховна Зайцева
Case No. D2026-3633

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 Маргарита Генриховна Зайцева, Russian Federation.

2. The Domain Name and Registrar

The disputed domain name <foundayo.moscow> is registered with Regtime Ltd. (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on August 13, 2026. On August 14, 2026, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 17, 2026, 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 (Redacted) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 17, 2026, 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 amendment to the Complaint on August 19, 2026.

On August 17, 2026, the Center informed the parties in Russian and English that the language of the registration agreement for the disputed domain name was Russian. On August 19, 2026, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not submit any comment on the Complainant's language request.

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 in English and Russian, and the proceedings commenced on August 20, 2026. In accordance with the Rules, paragraph 5, the due date for Response was September 9, 2026. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 10, 2026.

The Center appointed Assen Alexiev as the sole panelist in this matter on September 10, 2026. 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 a multinational pharmaceutical company founded in 1876 in the United States. One of the Complainant's most recent products is Foundayo (orfoglipron), an oral pharmaceutical product for the treatment of weight loss, approved by the United States Food and Drug Administration on April 1, 2026, and launched in the United States on April 9, 2026. On April 3, 2026, Foundayo was also approved for distribution in the United Arab Emirates by their competent authority. The Complainant uses the domain name <foundayo.com>, registered on April 25, 2024, for its official website for the Foundayo product.

The Complainant is the owner of a number of trademark registrations for FOUNDAYO (the "FOUNDAYO trademark") in different jurisdictions, including the following representative registrations:

- the trademark FOUNDAYO (word) with registration No. 1190515, registered in the Russian Federation on February 25, 2026, for goods in International Class 5;

- the European Union trademark FOUNDAYO (word) with registration No. 019043454, registered on January 9, 2025, for goods in International Class 5; and

- the European Union trademark Foundayo with registration No. 019233529, registered on February 12, 2026, for goods in International Class 5.

The disputed domain name was registered on May 9, 2026. When an attempt is made to access it, Internet browsers display warning messages that the connection is not private. If these warnings are disregarded, one arrives at a Russian-language website that promotes and offers for sale what is presented as the Complainant's Foundayo medication, displaying the FOUNDAYO trademark and images of its packaging:





The packaging of the different dosage strengths of the offered product on the image above uses the same colour scheme and specifies the same National Drug Code ("NDC"). The Respondent's website identifies the Complainant as the manufacturer of the offered products and includes statements such as "100% Official product", "Original Foundayo", "official deliveries", while its Q&A section includes the following question and answer: "Is a prescription necessary? No, you can acquire the product from us without a prescription."

There is no information on the website about the identity and address of its provider. The button inviting visitors to buy the product redirects them to a page on the WhatsApp website that suggests a chat on WhatsApp with a phone number containing the country code for the Russian Federation. The Panel undertook a limited factual research[1] and made an Internet search for this phone number, which returned results that included offers for sale of Mounjaro[2], Ozempic[3] and other pharmaceutical products.

The website provides no information about the Respondent, other than the above phone number. According to the information provided by the Registrar, the Respondent appears to be an individual with a physical address in the Russian Federation, and uses an email address "[…]@mail.ru" set up with a Russian free email services provider.

5. Parties' Contentions

A. Complainant

The Complainant submits that the disputed domain name is confusingly similar to the Complainant's FOUNDAYO trademark, because it incorporates the trademark in its entirety. The Complainant maintains that the FOUNDAYO trademark is an invented word with a high degree of individuality, inherent distinctiveness and no common colloquial use, and that prior to and following the April 9, 2026, launch of the Foundayo product, it received substantial media attention and public interest. The Complainant maintains that, given the distinctive nature of its FOUNDAYO trademark and the substantial publicity and public interest surrounding its Foundayo medication, Internet users are likely to associate the FOUNDAYO trademark exclusively with the Complainant.

According to the Complainant, the Respondent has no rights or legitimate interests in the disputed domain name, because it is not commonly known by it, is not using it in connection with a bona fide offering of goods or services, and is not making a legitimate noncommercial or fair use of the disputed domain name.

The Complainant points out that its Foundayo product is only available for sale in the United States and the United Arab Emirates on a physician's prescription and is manufactured, labeled, and sold in strict compliance with the health authority laws and regulations. The Respondent is however using the disputed domain name to sell counterfeit or gray market versions of the Foundayo product in the Russian Federation without a valid prescription and without the product having been legally approved for distribution in this jurisdiction. The Complainant adds that the product packaging shown on the Respondent's website is inconsistent with the Complainant's official packaging, as all dosages are displayed with identical blue packaging, whereas the official products of the Complainant use distinct colour-coded packaging for each dosage level. According to the Complainant, this shows that the goods offered by Respondent are either gray market or counterfeit.

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[1] Noting the general powers of a panel articulated inter alia in paragraphs 10 and 12 of the UDRP Rules, it has been accepted that a panel may undertake limited factual research into matters of public record if it would consider such information useful to assessing the case merits and reaching a decision (section 4.8 of the WIPO Overview of WIPO Panel Views on Select UDRP Questions ("WIPO Overview 3.1").

[2] Mounjaro (tirzepatide) is another prescription medication manufactured by the Complainant.

[3] Ozempic (semaglutide) is a prescription medication manufactured by Novo Nordisk.

The Complainant also notes that the Respondent does not disclose the absence of any relationship with the Complainant, which may lead Internet users to falsely believe that the Respondent's website is an official website of the Complainant, that the Respondent is an authorised distributor of the Foundayo product, or that the Respondent owns the FOUNDAYO trademark. The Complainant adds that the Respondent's website does not identify its provider and does not display any business name, physical address, or email address.

The Complainant contends that the Respondent has registered and is using the disputed domain name in bad faith. It points out that it has extensively marketed its Foundayo product in the United States, and media sources around the world have covered the product's release, so it is reasonable to infer that the Respondent knew of the Complainant's distinctive trademark when registering the disputed domain name which is comprised solely of the same trademark, and when setting up a website that offers for sale counterfeit or grey market versions of the Complainant's own product.

The Complainant notes that the contact email address disclosed by the Registrar for the Respondent incorporates the Complainant's MOUNJARO trademark. According to the Complainant, the Respondent's deliberate selection and use of such email address demonstrates its actual knowledge of the Complainant and its intent to target the same.

The Complainant points out that the content of the Respondent's website, including the use of the Complainant's FOUNDAYO trademark, the reference to "Eli Lilly and Company" as the manufacturer, the use of the Complainant's copyright-protected product images, and the offers for sale of the Foundayo product, mislead Internet users into believing that there is an association between the Complainant and the Respondent's website, and represent an intentional bad faith attempt to attract Internet users for commercial gain.

The Complainant notes that the Respondent's actions are 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 with an authorised distributor of the Complainant, and that they will be receiving safe and effective pharmaceutical products approved by the competent health authorities around the world.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

6.1. Procedural issue - Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Russian. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English, and the Complainant requested that the language of the proceeding be English. The Center made all its communications to the Parties in English and in Russian. The Respondent did not make any specific submissions with respect to the language of the proceeding and did not object to the Complainant's request that the language of the proceeding be English.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs. See WIPO Overview 3.1, section 4.5.1.

Having considered all the matters above, the Panel accepts that it would be fair, appropriate and efficient to proceed in English, while also taking into account all evidence that is available in the Russian language.

Therefore, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

6.2. Substantive issues

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 3.1, section 1.7.

The Complainant has shown rights in respect of the FOUNDAYO trademark for the purposes of the Policy. WIPO Overview 3.1, section 1.2.1.

The entirety of the FOUNDAYO trademark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the FOUNDAYO trademark for the purposes of the Policy. WIPO Overview 3.1, section 1.7.

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 recognised that proving that 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 3.1, 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 an illegal activity (here, claimed sale of counterfeit and unlicensed pharmaceuticals) can never confer rights or legitimate interests on a respondent. WIPO Overview 3.1, section 2.13.1.

The disputed domain name is identical to the distinctive FOUNDAYO trademark of the Complainant and carries a high risk of implied affiliation with the Complainant. Section 2.5.1 of the WIPO Overview 3.1. It is being used for hosting a website that offers for sale a Foundayo-branded product with a packaging different from the Complainant's, which incorrectly specifies the same NDCs for all dosage strengths. This suggests that the goods offered by the Respondent are counterfeit or grey market products, although its website presents them as official and original. These products are offered for sale in the Russian Federation, where the Complainant's product has not been authorised for sale. Moreover, the Complainant's product is a

prescription medicine, but the Respondent's website states that the offered products can be sold without a prescription. The Respondent's website does not disclose the identity of its provider. The fact that the indicated contact phone number and email address of the Respondent are linked to other prescription medicines suggests that the Respondent's activities are not incidental.

All the above supports a conclusion that the Respondent uses the disputed domain name for an illegal business that attempts to sell fake or unauthorised goods by misleading Internet users, and may potentially put their health at risk. Such use of the disputed domain name can never confer rights or legitimate interests on the Respondent.

The Panel therefore finds that 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.

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 3.1, section 3.2.1.

Panels have held that the use of a domain name for an illegal activity (here, claimed sale of counterfeit and unlicensed pharmaceuticals) constitutes bad faith. WIPO Overview 3.1, 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 disputed domain name is identical to the Complainant's trademark and offers for sale products presented as being manufactured by the Complainant. The Respondent's activities also appear to include other prescription medications of the Complainant and its competitors. This leads the Panel to the conclusion that the Respondent must have been well aware of the Complainant's Foundayo product and of the FOUNDAYO trademark when registering the disputed domain name. The disputed domain name is being used for the sale without a prescription of what appear to be counterfeit or gray market versions of the Complainant's prescription medication, in jurisdiction where this medication has not been approved for sale, and the Respondent's website presents the offered products as official and original. Such conduct may confuse and mislead Internet users and potentially put their health at a significant risk.

The Panel therefore 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 <foundayo.moscow> be transferred to the Complainant.

/Assen Alexiev /
Assen Alexiev
Sole Panelist
Date: September 10, 2026