ADMINISTRATIVE PANEL DECISION

Eli Lilly and Company v. jane Montegro
Case No. D2026-3678

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 jane Montegro, United States.

2. The Domain Name and Registrar

The disputed domain name <foundayo-uk.store> is registered with Spaceship, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on August 18, 2026. On August 18, 2026, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name that differed from the named Respondent (Redacted for Privacy Purposes, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on the same day, 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.

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").

The Respondent sent an email communication to the Center on August 20, 2026. On the same day, the Center sent an email regarding possible settlement, and the Complainant confirmed that it wished the proceeding to continue. The Respondent sent another email communication to the Center on August 21, 2026.

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on August 21, 2026. In accordance with the Rules, paragraph 5, the due date for Response was September 10, 2026. The Center commenced its panel appointment process on September 11, 2026.

The Center appointed Steven Auvil as the sole panelist in this matter on September 11, 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 global pharmaceutical company founded in 1876 and headquartered in Indianapolis, Indiana, United States. The Complainant develops and markets pharmaceutical products including those for the treatment of obesity and related conditions worldwide. The Complainant operates an informational website for its Foundayo product through “www.foundayo.com”, which redirects to “www.foundayo.lilly.com”.

The Complainant owns United Kingdom Trade Mark Registration UK00004065649, registered on September 20, 2024, for its FOUNDAYO brand.

The disputed domain name <foundayo-uk.store> was registered on June 6, 2026. According to the Complaint, the disputed domain name resolved to a website purporting to sell FOUNDAYO branded pharmaceutical products and prominently displaying the FOUNDAYO mark and descriptions of purported Foundayo products. The website offered pharmaceutical products globally, including in jurisdictions where the Complainant’s products were not approved for sale, and appeared to offer counterfeit or unauthorized products. At the time of writing this Decision this website is no longer active.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for transfer of the disputed domain name.

First, the Complainant contends that the disputed domain name is confusingly similar to its FOUNDAYO mark having only added the geographic term “uk” and the generic Top-Level Domain (“gTLD”) “.store”. Second, the Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name because the Respondent is not affiliated with or authorized by the Complainant and is using the disputed domain name to offer counterfeit, unauthorized, or gray-market pharmaceutical products under the FOUNDAYO designation. Finally, the Complainant contends that the Respondent registered and used the disputed domain name in bad faith by operating a website that falsely suggested affiliation with the Complainant to attract Internet users for commercial gain by creating a likelihood of confusion with the Complainant and its FOUNDAYO trademark.

The Complainant requests transfer of the disputed domain name.

B. Respondent

The Respondent did not submit a formal Response to the Complaint. The Respondent’s August 20, 2026, email did not substantively address the Complainant’s contentions, instead stating only, “buy the domain from me i will transfer out asap.” Similarly, the Respondent’s August 21, 2026, email failed to respond to the allegations in the Complaint, stating only, “lets ammend this and how an it be done.”

6. Discussion and Findings

According to paragraph 15(a) of the Rules: "[a] Panel shall 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 directs that the Complainant must prove each of the following to obtain relief:

(i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
(ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
(iii) that the disputed domain name has been registered and is being used in bad faith.

In view of the Respondent's failure to submit a formal Response, the Panel is entitled to accept as true the allegations set forth in the Complaint (unless the evidence is clearly contradictory), and to derive reasonable inferences from the evidence presented.

Based on the foregoing guidance, the Panel makes the following findings and conclusions based on the allegations and evidence contained in the Complaint, and reasonable inferences drawn from the evidence presented and the Respondent's failure to formally respond to the Complaint.

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 Select UDRP Questions ("WIPO Overview 3.1"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. WIPO Overview 3.1, section 1.2.1. The Complainant owns a registered trademark for FOUNDAYO, registered in 2024.

The disputed domain name incorporates the Complainant's FOUNDAYO mark in its entirety. The only additional element is the apparent geographic term "uk". The Panel finds the mark is recognizable within the disputed domain name. Although the addition of "uk" may bear on assessment of the second and third elements, the Panel finds the addition of this term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. WIPO Overview 3.1, section 1.8. Accordingly, the disputed domain name is confusingly similar to the Complainant's FOUNDAYO mark for the purposes of the Policy. WIPO Overview 3.1, section 1.7.

Further, as set forth in section 1.11.1 of the WIPO Overview 3.1, the applicable gTLD (e.g., ".com" or ".org") is viewed as a standard registration requirement and as such is typically disregarded under the first element's confusing similarity test. Accordingly, the Panel finds that the use of ".store" gTLD in the disputed domain name has no bearing on the confusing similarity analysis.

The Panel therefore finds that the first element of paragraph 4(a) 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. Such circumstances include:

(i) before any notice of the dispute, the Respondent used, or prepared to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a bona fide offering of goods or services; or

(ii) the Respondent (as an individual, business, or other organization) is commonly known by the disputed domain name, even if the Respondent has acquired no trademark or service mark rights; or

(iii) the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or tarnish the trademark or service mark at issue.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized 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 Panel finds that the Respondent is not affiliated with the Complainant, the Respondent was never authorized to use the Complainant's FOUNDAYO trademark, the Respondent is not commonly known by the disputed domain name, and that the Respondent used the disputed domain name for a website prominently displaying the Complainant's FOUNDAYO mark and purported product content. The Respondent has not rebutted the Complainant's prima facie showing and, indeed, 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.

Further, panels have consistently held that use of a domain name to impersonate a complainant or falsely suggest affiliation cannot constitute a bona fide offering of goods or services or a legitimate noncommercial or fair use. WIPO Overview 3.1, sections 2.5.1 and 2.13.1. Here, the record reflects that the Respondent used the disputed domain name to offer identical or similar goods as the Complainant's branded pharmaceuticals and to mimic the Complainant's legitimate online presence in an attempt at impersonation or passing off, or at a minimum create a false association with the Complainant. Such use cannot constitute a bona fide offering of goods or services or a legitimate noncommercial or fair use. Accordingly, the Panel finds that the Respondent lacks rights or legitimate interests in the disputed domain name.

The second element of paragraph 4(a) 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 concludes that the Respondent registered and used the disputed domain name in bad faith.

First, the disputed domain name wholly incorporates the Complainant's FOUNDAYO mark and appends the geographic term "uk", and the Respondent used it to promote purported FOUNDAYO-branded products. The record demonstrates that the Respondent intentionally sought to create the false impression of an official or authorized FOUNDAYO website. This supports a finding of registration in bad faith.

Second, the Panel concludes from the foregoing facts that the Respondent intentionally attempted to attract Internet users, for commercial gain, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement. This is strong evidence of bad-faith registration and use of the disputed domain name under paragraph 4(b)(iv) of the Policy.

Third, to the extent the disputed domain name was used to facilitate sales of counterfeit, unauthorized, or otherwise illegitimate pharmaceutical products, such conduct constitutes bad faith under established UDRP precedent. See WIPO Overview 3.1, section 3.4.

The above facts coupled with the fact that the Respondent attempted to sell the disputed domain name to the Complainant after being informed of the dispute shows bad faith registration and use.

Accordingly, the Panel finds that the disputed domain name was registered and is being used in bad faith.

The third element of the Policy has been established.

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-uk.store> be transferred to the Complainant.

/Steven Auvil/
Steven Auvil
Sole Panelist
Date: September 11, 2026