

ADMINISTRATIVE PANEL DECISION

Eli Lilly and Company v. anilx cols
Case No. D2024-0440

1. The Parties

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

The Respondent is anilx cols, Åland Islands, Finland.

2. The Domain Name and Registrar

The disputed domain name <stlilly.com> is registered with CloudFlare, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 30, 2024. On January 31, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 1, 2024, 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 (DATA REDACTED) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 2, 2024, 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 February 2, 2024.

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, and the proceedings commenced on February 13, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 4, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 5, 2024.

The Center appointed Eva Fiammenghi as the sole panelist in this matter on March 12, 2024. 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 leading pharmaceutical company which was founded in 1876 by Colonel Eli Lilly. Over the years, the Complainant has been at the forefront of significant medical breakthroughs, including the following: Prozac, Zyprexa, and Cialis.

The Complainant owns LILLY trademark registrations (about 178) in many jurisdictions, including, but not limited to, the following:

- United State trademark LILLY Reg. No. 1,226,434, registered on February 8, 1983, in class 5;
- United State trademark LILLY Reg. No. 4,478,467, registered on February 4, 2014, in class 35; and
- United State trademark LILLY Reg. No. 5,525,597, registered on July 24, 2018, in class 44.

The Complainant is also the owner of the domain name <lilly.com>, the domain name was registered by the Complainant on May 10, 1991, and since then has been used by the Complainant in connection with its official website to promote and provide information regarding its pharmaceutical products.

The disputed domain name was registered on October 3, 2023. The disputed domain name does not display any active content when accessed from a desktop computer. However, upon accessing it from a mobile device, it directs users to a website mimicking the login page of the Complainant, prompting users to input personal data and login credentials.

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 name.

The Complainant contends that the disputed domain name is confusingly similar to the well-known trademark LILLY (which is entirely reproduced) with the sole addition of the letters "st" at the beginning of the word.

The Respondent is not affiliated with the Complainant and there is no evidence to suggest that the Respondent has registered the disputed domain name with rights or legitimate interests. The Complainant has never licensed or otherwise permitted the Respondent to use its trademark or to register any domain name including its trademark.

Lastly, the Complainant claims that the Respondent has registered and use the disputed domain name in bad faith.

The Complainant requests that the disputed domain name be transferred to it.

B. Respondent

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

6. Discussion and Findings

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

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

These elements are discussed in turn below. In considering these elements, paragraph 15(a) of the Rules provides that the Panel shall decide the Complaint on the basis of statements and documents submitted and in accordance with the Policy, the Rules and any other rules or principles of law that the Panel deems applicable.

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 Selected UDRP Questions, Third Edition ("[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 mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here "st", may bear on assessment of the second and third elements, the Panel finds the addition of such 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 3.0](#), section 1.8.

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 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.

The Panel notes that the Respondent's actions are potentially fraudulent. The Complainant's proof that the disputed domain name resolves users to an imposter website where the Respondent impersonates the Complainant is concerning. This behavior, which involves mimicking the Complainant's login page, prominently displaying the Complainant's trademark, and soliciting personal data and login information from users, is clearly a fraudulent use of the disputed domain name which would never confer rights or legitimate interests on the Respondent.

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 acknowledges and emphasizes that the Complainant has provided compelling evidence of its long-standing use and extensive marketing of the LILLY trademark since at least February 1895. Given the considerable reputation and recognition of the LILLY trademark, it is reasonable to infer that it is well known in the relevant industry.

Furthermore, the Complainant has convincingly argued that the Respondent's fraudulent conduct, which involves using the dispute domain name to impersonate the Complainant and potentially engage in phishing activities, demonstrates a clear awareness of the Complainant's trademark at the time of registering the disputed domain name. Such behavior not only undermines the Complainant's trademark integrity but also poses a significant threat to unsuspecting Internet users who may be deceived into providing sensitive information.

In light of these considerations, it is evident that the Respondent registered the disputed domain name in bad faith. The use of the Complainant's trademark to impersonate the Complainant and engage in fraudulent activities constitutes a deliberate attempt to disrupt the Complainant's operations and potentially harm Internet users.

UDRP panels have held that the use of a domain name for illegal activity (here, claimed as unauthorized account access/hacking, 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 Respondent's registration and use of the disputed domain name 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 name <stilly.com> be transferred to the Complainant.

/Eva Fiammenghi/

Eva Fiammenghi

Sole Panelist

Date: March 25, 2024