

ADMINISTRATIVE PANEL DECISION

Eli Lilly and Company v. Josh Anderson, THC Bulk Supplies
Case No. D2024-3316

1. The Parties

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

The Respondent is Josh Anderson, THC Bulk Supplies, United States of America.

2. The Domain Name and Registrar

The disputed domain name <getmounjarocoupon.com> is registered with eNom, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 13, 2024. On August 14, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 14, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 15, 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 August 19, 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 August 20, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 9, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 18, 2024.

The Center appointed Joseph Simone as the sole panelist in this matter on October 1, 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, Eli Lilly and Company, founded in 1876 by Colonel Eli Lilly in Indianapolis, Indiana, is a renowned global pharmaceutical corporation with a focus on developing and delivering medications to improve overall health outcomes. Over its long history, the Complainant has made contributions to medicine, particularly in the fields of diabetes, oncology, neuroscience, and immunology.

The Complainant is known for pioneering the mass production of insulin and diabetes treatment, with one of its key products being “Mounjaro”.

The United States Food and Drug Administration announced its approval of the MOUNJARO brand product for use in connection with injectable pharmaceutical products for the treatment of type 2 diabetes on May 13, 2022, and the products was launched by the Complainant in June 2022.

By the end of 2022, the product generated nearly two-hundred and eighty million dollars (USD 280,000,000.00) in revenue. Sales of MOUNJARO brand product continued to increase throughout 2023, with the Complainant’s year-end financial report announcing revenues of more than five billion, one hundred sixty million dollars (USD 5,160,000,000.00) in connection with the product, and second quarter 2024 financial report announcing revenues of more than four billion, eight hundred ninety-seven million dollars (USD 4,897,000,000.00).

The Complainant has an extensive global portfolio of trade marks consisting of the term “Mounjaro”:

- European Union Trade Mark Registration No. 018209187 for MOUNJARO, in Class 5, registered on September 8, 2020;
- United States of America Trade Mark Registration No. 6,809,369 for MOUNJARO, in Class 5, registered on August 2, 2022;
- Hong Kong Trade Mark Registration No. 305559247 for MOUNJARO, in Class 5, registered on March 11, 2021; and
- China Trade Mark Registration No. 44906078 for MOUNJARO, in Class 5, registered on November 21, 2020.

The disputed domain name was registered on January 18, 2024.

According to evidence provided by the Complainant, at the time of filing the Complaint, the disputed domain name resolved to a website featuring an online store advertising and allegedly selling gray market or potentially counterfeit versions of the Complainant’s MOUNJARO branded products to countries where the products have not been legally approved for distribution, and therefore without a valid prescription. At the time of issuance of this Decision, the disputed domain name continued to resolve to the same site.

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.

Notably, the Complainant contends that the disputed domain name registered by the Respondent is identical or confusingly similar to the Complainant's MOUNJARO trade marks, and that the addition of the generic Top-Level Domain ("gTLD") ".com" does not affect the analysis as to whether the disputed domain name is identical or confusingly similar to the Complainant's trade marks.

Furthermore, the Complainant argues that the addition of the terms "get" and "coupon" does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's MOUNJARO mark.

The Complainant asserts that it has not authorized the Respondent to use the MOUNJARO mark, and there is no evidence to suggest that the Respondent has used, or undertaken any demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services.

The Complainant also claims there is no evidence indicating that the Respondent has any connection to the MOUNJARO mark in any way, and that there is no plausible good-faith reason for the Respondent to have registered the disputed domain name. The Complainant therefore concludes that the registration and any use of the disputed domain name whatsoever must be in bad faith.

B. Respondent

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

6. Discussion and Findings

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 trade mark 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 Panel acknowledges that the Complainant has established rights in the MOUNJARO trade marks in many jurisdictions around the world.

Disregarding the gTLD ".com", the disputed domain name incorporates the Complainant's trade mark MOUNJARO in its entirety. Thus, the disputed domain name should be regarded as confusingly similar to the Complainant's MOUNJARO trade mark. The inclusion of the additional terms "get" and "coupon" does not prevent a finding of confusing similarity. [WIPO Overview 3.0](#), sections 1.7 and 1.8.

The Panel therefore finds that the Complainant satisfies the requirements of paragraph 4(a)(i) of the Policy in establishing its rights in the MOUNJARO trade mark and in showing that the disputed domain name is confusingly similar to its mark.

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.

The Complainant asserts that it has not authorized the Respondent to use its trade marks and there is no evidence to suggest that the Respondent has used, or undertaken any demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services. Having reviewed the available record, the Panel finds that the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name.

The Respondent did not file a response and has therefore failed to assert factors or put forth evidence to establish that he enjoys rights or legitimate interests in the disputed domain name. Meanwhile, no evidence has been provided to demonstrate that the Respondent, prior to the notice of the dispute, had used or demonstrated its preparation to use the disputed domain name in connection with a bona fide offering of goods or services. At the time the Complaint was filed, the disputed domain name resolved to a website allegedly offering gray market or potentially counterfeit versions of the Complainant's MOUNJARO branded products. However, the website failed to clarify whether it was affiliated or not with the Complainant. Given the composition of the disputed domain name and its use, it is clear the Respondent sought to create a misleading inference of association or ownership by the Complainant for its commercial advantage.

There is also no evidence adduced to show that the Respondent has been commonly known by the disputed domain name or the Respondent is making a legitimate noncommercial or fair use of the disputed domain name. As such, the Panel concludes that the Respondent has failed to rebut the Complainant's prima facie showing of the Respondent's lack of rights or legitimate interests in the disputed domain name, and that none of the circumstances of paragraph 4(c) of the Policy is applicable in this case.

Accordingly, and based on the Panel's findings below, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name pursuant to paragraph 4(a)(ii) of the Policy.

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 states that any of the following circumstances, in particular but without limitation, shall be considered as evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant (the owner of the trade mark or service mark) or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or
- (ii) circumstances indicating that the respondent registered the domain name in order to prevent the owner of the trade mark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) circumstances indicating that the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) circumstances indicating that the respondent is using the domain name to intentionally attempt to attract, for commercial gain, Internet users to its 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 the respondent's website or location or of a product or service on its website or location.

The examples of bad faith registration and use set forth in paragraph 4(b) of the Policy are not meant to be exhaustive of all circumstances in which bad faith may be found. Other circumstances may also be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith ([WIPO Overview 3.0](#), section 3.2.1).

For reasons discussed under this and the preceding heading, the Panel believes that the Respondent's conduct in this case constitutes bad faith registration and use of the disputed domain name.

When the Respondent registered the disputed domain name, the MOUNJARO trade marks were already widely known and directly associated with the Complainant's activities. UDRP panels have consistently found that the mere registration of a domain name that is confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely known trade mark by an unaffiliated entity can by itself create a presumption of bad faith. See [WIPO Overview 3.0](#), section 3.1.4.

Given the extensive prior use and fame of the Complainant's marks, in the Panel's view, the Respondent should have been aware of the Complainant's marks when registering the disputed domain name.

The Respondent has provided no evidence to justify his choice of the term "mounjaro" in the disputed domain name.

The Complainant's registered trade mark rights in MOUNJARO for its products and services predate the registration date of the disputed domain name. A simple online search for the term "mounjaro" would have revealed that it is an established brand. [WIPO Overview 3.0](#), section 3.2.2.

The Panel takes particular note of the fact that the Respondent used the disputed domain name for a website promoting products which potentially are gray market or counterfeit versions of the Complainant's products.

The Panel is therefore of the view that the Respondent registered the disputed domain name with full knowledge of the Complainant's trade mark rights.

In light of the foregoing, there are no plausible good faith reasons for the Respondent to have registered and used the disputed domain name. The Panel finds in the circumstances that, by registering and using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trade marks as to the source, sponsorship, affiliation, or endorsement of its website or of a product or service on its website (paragraph 4(b)(iv) of the Policy).

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

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 <getmounjarocoupon.com> be transferred to the Complainant.

/Joseph Simone/

Joseph Simone

Sole Panelist

Date: October 10, 2024