

“Get the Skinny” on Trademark Issues for Obesity Drugs

Perspectives from in-house counsel at Lilly and Novo Nordisk

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Lilly

Overview

- Obesity as a disease
- GLP-1 Medicines
- INNs & Trademarks
- Compounding
- Counterfeiting
- Efforts to Protect Patients
- Online Enforcement
- Infringement of Trademarks/INNs
- Trademarks in Media/Culture
- The Future?



What is Obesity?

- *Chronic medical condition*
 - *WHO recognized in 1997*
- **BMI** equals kg/m^2 or $\text{lbs./inches}^2 \times 703$
- *Overweight: over 25*
- *Moderately Obese: 30- 34*
- *Severely Obese: 35 -39*
- *Extremely Obese: over 40*



Obesity – Major health concern

Globally:

- 890 million adults obese
- 160 million children & adolescents obese

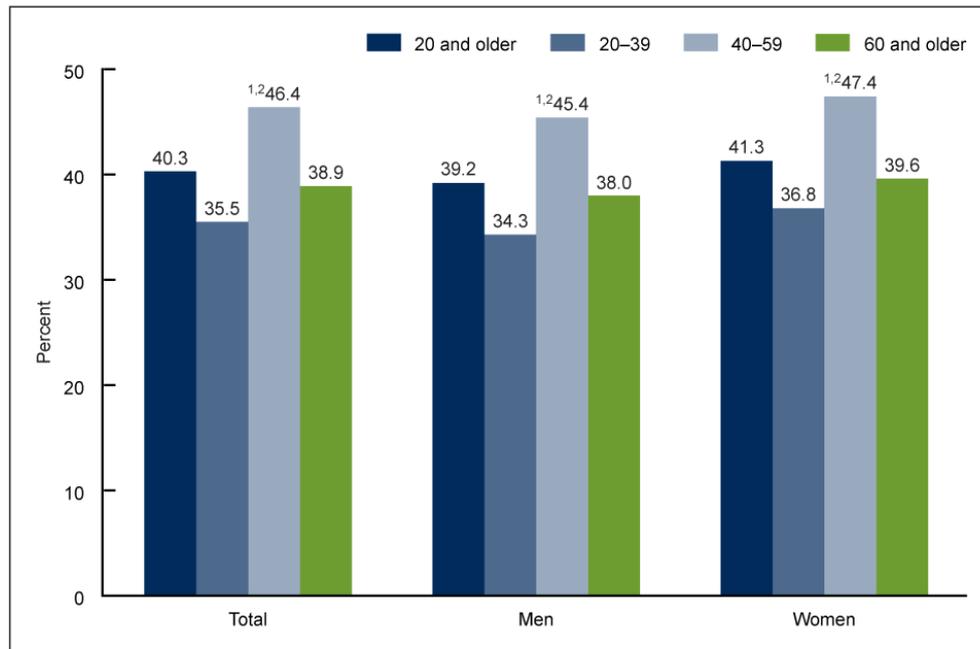
US:

- 40% adults obese
- 9% adults severe obese

Europe:

- 23% adults obese

Figure 1. Prevalence of obesity in adults age 20 and older, by sex and age: United States, August 2021–August 2023



¹Significantly different from ages 20-39 ($p < 0.05$).

²Significantly different from age 60 and older ($p < 0.05$).

NOTE: Age-adjusted estimates for adults age 20 and older are 40.3% for the total population, 39.3% for men, and 41.4% for women and were age adjusted by the direct method to the U.S. Census 2000 population using age groups 20-39, 40-59, and 60 and older.

SOURCE: National Center for Health Statistics, National Health and Nutrition Examination Survey, August 2021–August 2023.

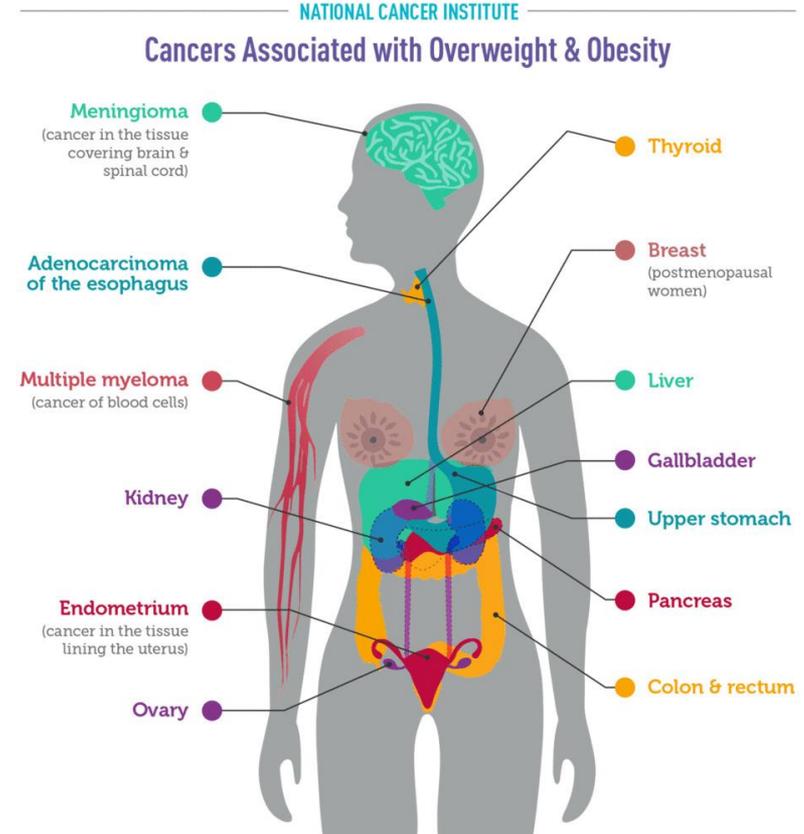
Obesity-linked health complications



- Diabetes
- Heart disease
- High blood pressure
- High cholesterol
- Liver disease, sleep apnea
- Strain on joints, increased osteoarthritis
- Mental health (depression and anxiety) Alzheimer's?

Obesity-linked (continued)

- Even Cancer!



GLP-1 medicines

Glucagon-like peptide 1 (GLP-1) agonists:

- Mimic the hormone called glucagon-like peptide 1
- Stimulate insulin secretion
- Slow down stomach emptying, feeling full longer
- Bind to receptors in the brain that regulate appetite and feeling full



GLP-1 INNs

Non-proprietary names:

- **Semaglutide**
- **Tirzepatide** (dual-acting GLP-1/GIP agonist)
- Exclusive use of these INNs (in almost every country)



Novo and Lilly GLP-1 Trademarks

- 2018 - **OZEMPIC**
- 2019 – **RYBELSUS**
- 2021 – **wegovy**
- 2022 – **once weekly mouniario®**
- 2023 - **zepbound▶▶**

These drugs are among the top-selling pharmaceuticals globally in 2025.

That popularity has led to several trademark issues.....

Compounding

- **General definition of compounding:**
- The process of preparing personalized medications by (1) **combining, mixing, or altering ingredients** to tailor a medication to the needs of (2) **an individual patient**. Typically (3) **performed by licensed pharmacists or physicians** when (4) **commercially available drugs do not meet a patient's specific requirements**, such as allergies to certain ingredients, the need for a different dosage form, or the absence of a suitable commercial product.
- These medicines are not approved by the FDA or EMA

Compounding Litigation – in the news

- [Novo Nordisk expands lawsuits in U.S. against weight-loss drug compounders - The Globe and Mail](#)
- [Lilly files lawsuits against 6 sellers of compounded Tirzepatide](#)
- [Eli Lilly Sues Empower Pharmacy: What Medspas Must Know About Tirzepatide Crackdown](#)

Compounding Enforcement – in the news

- [US FDA warns online vendors to stop selling unapproved weight-loss drugs | Reuters](#)
- On May 21, 2024, the **Australian** government announced a complete ban on compounded tirzepatide and other compounded diabetes and weight loss medicines due to the “increasing reports of patients coming to harm from [incretin medications] including the hospitalization of a patient in Australia due to a serious adverse event.”
 - Mark Butler, Australia’s Minister for Health, stated: “You only have to look to the recent reports of individual impacted by large-scale compounding to realize the dangers posed. **This action will protect Australians from harm and save lives.**”

Dangers of Compounding

- Lilly has discovered compounded drugs advertised as tirzepatide with safety, sterility, and efficacy problems. Some have contained **bacteria**, high **impurity** levels, different colors (pink, instead of colorless), or a completely **different chemical structure** than Lilly's FDA-approved medicines. In at least one instance, the product was nothing more than **sugar alcohol**.



Compounding and Trademarks

- Lilly published an Open Letter about practices including compounding, citing our most famous trademark: **We are guided every day by our founder Colonel Eli Lilly's saying, over a hundred years ago, when he affixed his signature as the logo to our medicines: "If it bears a red Lilly, it's right."**
- *Lilly never sells genuine Mounjaro® or Zepbound® on social media.*
- *Illegal online pharmacies "sell substandard and falsified versions" of incretin medications and put people at risk*
- *People should never put products labeled "research purposes only" or "not for human consumption" into their bodies.*
- *Social media is not a replacement for a healthcare professional.*

TM Guidance from Compounding Association:

THIS IS NOT OKAY



THIS IS OKAY



A BETTER OZEMPIC

Super convenient

Suppress appetite and cravings

Same ingredient as ozempic

No injections, better pricing

TRY Compounded
sublingual
semaglutide

\$28/ml vs **\$75/ml**
90 day BUD 90 day BUD



Compounded sublingual semaglutide

Ask your doctor about compounded sublingual semaglutide prescriptions.

What is compounded sublingual semaglutide?

Compounded pharmacy semaglutide is a tailored version of the prescription medicine semaglutide. Made by specialized pharmacies, this version is designed to cater to the unique needs of individual patients

Counterfeiting



Vials



**Single-Dose Pen
(Autoinjector)**



**Multi-Dose Pen
(KwikPen®)**

Patients Go Online



- **CNBC:** "The Weight-Loss Drug Boom Has Become One of the Internet's Biggest Scams," December 8, 2024.
- Consumers are flocking to TikTok and other social media platforms and websites to purchase branded and illicit GLP-1s, often without a prescription.
- A 2024 study found that 12% of American adults reported ever taking a GLP-1, with 21% of those purchasing the product through telehealth companies or med spas that typically sell medications not approved by the FDA. [KFF Health Tracking Poll May 2024: The Public's Use and Views of GLP-1 Drugs | KFF](#)

Patients Go Online (continued)

- “.... **online** retailers are illegally selling the active ingredients of GLP-1 drugs **directly to consumers, without a prescription**. These retailers claim that the active ingredients they sell are “for research purposes only” or “not for human consumption”. In reality, these companies advertise directly to consumers on **social media**, claiming that their products are an easier and more affordable way to obtain GLP-1 drugs. **Much like with counterfeit versions, these active ingredients come from unregulated, undisclosed sources** in countries like China and India and pose risks of contamination and inclusion of foreign substances.” [State and Territory Attorneys General Urge FDA to Take Action Against Counterfeit and Illegally Sold GLP-1 Drugs - National Association of Attorneys General](#)

Efforts to Protect Patients

[Learn the latest information.](#)

[Learn how to identify compounded/counterfeit tirzepatide and its potential risks.](#)

FOR ADULTS WITH TYPE 2 DIABETES

Mounjaro is proven to help lower
A1C*

*Along with diet and exercise

What would you like to know?

What is Mounjaro

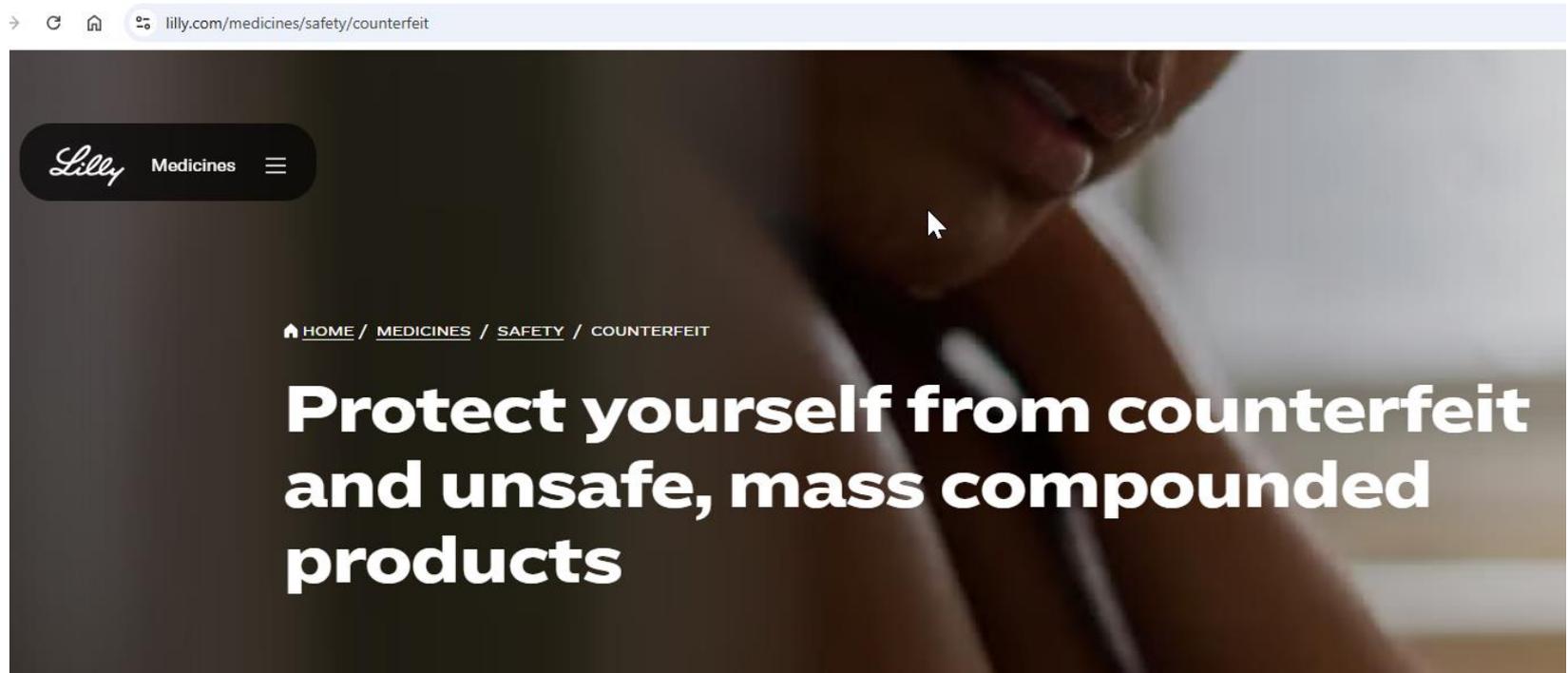
How to Use Mounjaro

Helpful lifestyle tips



Efforts to Protect Patients (cont'd)

- <https://www.lilly.com/medicines/safety/counterfeit>



Efforts to Protect Patients (cont'd)

- Patients can check whether the serial number of their medicine is consistent with genuine Lilly U.S. medicine by scanning the 2D barcode on each package

scan.lilly.com

Lilly

[n and Safety Summary with Warnings for Mounjaro®](#)

[n and Safety Summary with Warnings for Zepbound®](#)

Identifying your Zepbound® (tirzepatide) and Mounjaro® (tirzepatide) medication

Start by scanning the 2D barcode on your medicine package with your smartphone. An example can be found below. This will check if your medicine's serial number is consistent with medicines manufactured by Lilly and obtained in the United States.

How to find your 2D barcode

Lilly's online enforcement program



Social Media

Accounts and postings on social platforms, *i.e.* Facebook, Instagram, X, etc



Websites

Stand-alone websites found via online search



UDRP

Websites permanently seized that have MOUNJARO or ZEPBOUND in the domain name



Marketplaces

Accounts and listings in platforms that directly facilitate sales, *i.e.* Alibaba, Mercado Libre, etc.



Paid Ads

Advertisements and “sponsored content” appearing in social media or search engines

TM Infringements/ Playing off INN

- Semaglutide therapy (class 44)
- Semaglue, Semaglut



TM Infringements/Playing off INN

TIRZPATIDE

BERZEPATIDE

TIRZEPATIDE

TIRZETIDE-Q

TIRZAPAPTIDE

TIRZEPURE

TIRZETIDE

MOUNJA
Burn



Slimjaro



EUIPO and INN Trademarks

- Absolute ground for refusal (Article 7(1)(g) of the EUTMR)
- EUIPO will check proposed trademarks against the WHO INN list. If a mark is identical or confusingly similar to an INN, it will be refused for relevant goods (typically pharmaceuticals). Also for non-pharmaceutical goods, if risk of confusion.

USPTO and INN Trademarks

- No specific guidance on the use of USANs/INNs
- Standard objections available:
 - Generic
 - Descriptive
 - Deceptive / deceptively misdescriptive
 - No bona fide intent to use / fake specimen

TRIPS requires member states to ensure that INNs remain free for use by all and are not monopolized through trademark registration

Enforcement in USPTO: Letter of Protest

Generally, should be filed prior to publication

- Limited to issues and evidence relevant to grounds for *ex parte* refusal
- “Objective” evidence; no adversarial arguments
- The identity of the protestor is not revealed to the applicant.
- The Letter of Protest itself is not made part of the application record; only the evidence forwarded by the USPTO is included.

Enforcement in USPTO: Oppositions

- If the applied-for mark includes a generic (non-proprietary) name, priority and likelihood of confusion under Section 2(d) would not be a basis for opposing.
- Potential grounds include genericness, descriptiveness, misdescriptiveness, etc.

Enforcement in USPTO v. INN Mark

Lilly v. Gegejia Limited

(Opp. No. 91296263) (Default judgment)

- **TIZEPEPTIDE** in Classes 5, 29, 30, 32
- Lilly alleged the proposed mark was generic, merely descriptive and deceptively misdescriptive.

Enforcement in USPTO v. INN Mark

Lilly v. Tingwei Chen

(Opp. No. 9191296265) (Default judgment)

- **TIRZAPAPTIDE** (stylized) in Class 5

The logo for TirzaPaptide features a stylized, bold, black letter 'T' on the left. To its right, the word 'irzaPaptide' is written in a bold, italicized, black sans-serif font. The 'i' in 'irza' has a small dot, and the 'P' in 'Paptide' is capitalized.

- Lilly alleged the proposed mark was generic, merely descriptive and deceptively misdescriptive. Also alleged the applicant submitted a fake specimen.

Enforcement in USPTO v. INN Mark

Novo Nordisk A/S v. Semaslim LLC

(Opp. No. 91299133) (pending)

- **SEMAGLUTIDE THERAPY** in Class 44
- Novo alleged the proposed mark was generic, merely descriptive and deceptively misdescriptive.

Enforcement in Brazil v. INN & TM

Brazil App. No. 938382608 for **TIRZEBOUND** “cosmetic preparations for weight loss” in Class 3 :



Eli Lilly and Company v. Claudio da Silva Santos (pending)

Lilly alleged violations of trademark rights/likelihood of confusion and also alleged the applied-for mark is misleading because it refers to a medical ingredient (tirzepatide) for a cosmetic product.

U.S. Federal Court

- **Unfair competition** tied to misleading generic use
- Restatement Third, Unfair Competition § 15, comment d (1995) (“Use of a **generic term in a manner likely to deceive or mislead a significant number of prospective purchasers** as to the source of the goods or service, however, may subject the user to liability under the general rule proscribing misrepresentations of source. ... Subsequent users, although protected in their right to use a generic term, may thus be required to take reasonable precautions to avoid a likelihood of confusion.”)

GLP-1 Trademarks in the Media/Culture...



The Future?

- Better health for patients!
- More enforcement against illegal compounding?
- WHO/USAN start enforcing against INN ripoffs?
- Next-generation anti-obesity medicines?



Thank You

- Any questions?

