

ADMINISTRATIVE PANEL DECISION

Teva Pharmaceutical Industries Ltd v. Jose Miranda
Case No. D2023-0420

1. The Parties

The Complainant is Teva Pharmaceutical Industries Ltd, Israel, represented by SILKA AB, Sweden.

The Respondent is Jose Miranda, United States of America.

2. The Domain Name and Registrar

The disputed domain name <teva-usa.org> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 30, 2023. On January 31, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 31, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is not listed as the registrant and disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 6, 2023 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 6, 2023.

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 sent notification to the Respondent of the Complaint, and the proceedings commenced on February 17, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 9, 2023. The Respondent did not submit any response. Accordingly, the Center sent notification of the Respondent’s default on March 21, 2023.

The Center appointed Petra Pecar as the sole panelist in this matter on March 29, 2023. 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 was established in 1935, with roots dating back to 1901. The Complainant is a leading global pharmaceutical company providing high-quality, patient-centric healthcare solutions. As one of the world's largest generic medicines producer in 2018, the Complainant offers a diverse portfolio of over 1,800 molecules, serving various therapeutic areas. The company holds a world-leading position in innovative treatments for central nervous system disorders and has a strong respiratory products portfolio. In 2017, they produced approximately 120 billion tablets and capsules at numerous manufacturing facilities worldwide. According to their 2021 annual report, they are active in over 60 countries with sales exceeding USD 15 billion and employing more than 37,000 people internationally.

The Complainant is the owner of portfolio of TEVA trademarks registered across many countries and territories, including:

- European Union Trademark Registration No. 000115394 TEVA (figurative mark), registered on April 29, 1998, in international class 5;
- European Union Trademark Registration No. 1192830 TEVA (word mark), registered on July 18, 2000, in international classes 3, 5, and 10;
- United States Trademark Registration No. 5983628  (figurative mark), registered on February 11, 2020, in international class 36, with the first use in commerce on February 26, 2018;
- United States Trademark Registration No. 5991395  (figurative mark), registered on February 18, 2020, in international class 44, with the first use in commerce on February 26, 2018;
- International Trademark Registration No. 1319184  (figurative mark), registered on June 15, 2016, in international classes 5, 10, and 42; and
- United Kingdom Trademark Registration No. UK915135908  (figurative mark), registered on July 28, 2016, in international classes 1, 3, 5, 9, 10, 16, 35, 42, and 44.

The Complainant has an online presence through the domain name <tevausa.com>, which was registered on June 14, 1996 in the name of its subsidiary Teva Pharmaceuticals USA, Inc. The website hosted on this domain name provides information about the company and its activities.

The disputed domain name was registered on December 27, 2022, and it does not resolve to an active website.

5. Parties' Contentions

A. Complainant

The Complainant states that its well-known TEVA mark is entirely incorporated and recognizable in the disputed domain name, resulting in confusing similarity as per paragraph 4(a)(i) of the Policy. The Complainant argues that the additional elements, such as a hyphen and the term "usa" which is an abbreviation for United States of America do not alleviate confusing similarity, as established by WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8, and supported by various UDRP decisions. The Complainant also asserts that the inclusion of the generic Top-Level Domain ("gTLD") ".org" is irrelevant to the assessment, as it is a standard registration requirement and does not impact the confusing similarity evaluation. Based on these contentions, the Complainant maintains that the disputed domain name is identical or confusingly similar to their well-known TEVA mark, fulfilling the first requirement of the UDRP.

The Complainant asserts that the Respondent has no rights or legitimate interests in the disputed domain name according to the UDRP Policy and Rules. As supported by [WIPO Overview 3.0](#), the Complainant establishes a *prima facie* case by presenting various reasons, including: (1) the lack of consent or authorization from the Complainant to use the TEVA mark, (2) the absence of evidence suggesting the Respondent is commonly known by “teva-usa.org” or “teva-usa”, (3) no trademark rights held by the Respondent for the disputed domain name or “teva-usa”, (4) no discernible meaning in the English language for “teva-usa”, (5) the Respondent’s failure to use the disputed domain name in good faith or for a non-commercial activity, and (6) the likelihood that the disputed domain name seeks to capitalize on the reputation and goodwill of the Complainant’s TEVA marks, misleading consumers and implying false affiliation. Given these circumstances, the Complainant argues that the Respondent lacks rights or legitimate interests in the disputed domain name, fulfilling the second element of the UDRP.

The Complainant argues that the Respondent registered and is using the disputed domain name in bad faith. The TEVA mark, owned by the Complainant, was registered and in use well before the disputed domain name registration. Given the mark’s international recognition and the disputed domain name similarity to the Complainant’s domain name <tevausa.com>, it is implausible that the Respondent was unaware of the Complainant’s mark.

The Complainant cites WIPO UDRP decisions supporting the claim that registration of a domain name identical or confusingly similar to a well-known trademark is a presumption of bad faith. The Respondent’s passive holding of the disputed domain name also constitutes bad faith use according to the doctrine of passive holding, as the TEVA mark is well-known, the Respondent is concealing its identity, and it is implausible to imagine any good faith use for the disputed domain name.

Finally, the Complainant highlights that the disputed domain name is offered for sale for USD 199, indicating that it was registered for the purpose of reselling at a profit, which is also considered bad faith use. In conclusion, the Complainant believes that the Respondent’s actions prove the disputed domain name was registered and is being used in bad faith, satisfying the third element of the Policy.

B. Respondent

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

6. Discussion and Findings

Even if the Respondent did not file a Response to the Complainant’s contentions, the Panel shall consider the issues present in the case based on the statements and documents submitted by the Complainant.

“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”, as indicated in paragraph 15(a) of the Rules.

Under paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements:

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

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires a complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights. A trademark

registration provides a clear indication that the rights in the trademark belong to the complainant (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.2.1).

In the present case, the Panel finds that the Complainant has established its rights in the TEVA trademarks based on previous European Union and worldwide trademark registrations, which preceded the disputed domain name registration for at least 24 years.

Previous UDRP panels have found the Complainant's TEVA trademark to be wellknown (see *Teva Pharmaceutical Industries Ltd. v. Domain Administrator, See PrivacyGuardian.org / Torsten Burger*, WIPO Case No. [D2021-0924](#); *Teva Pharmaceutical Industries Limited v. 石磊 (Shi Lei)*, WIPO Case No. [D2021-1522](#); *Teva Pharmaceutical Industries Limited v. Ahmed Rahul, Dry*, WIPO Case No. [D2019-2488](#)). In addition to that, the Complainant has provided evidence in respect to the recognition of reputation of the TEVA trademark throughout the world, and this Panel, therefore, holds that indeed the TEVA trademark should be observed as a well-known trademark.

The disputed domain name <teva-usa.org> consists of the Complainant's trademark TEVA with the addition of a hyphen, the geographic abbreviation "usa", presumably in reference to the United States of America and the applicable gTLD suffix ".org". Because the Complainant's TEVA trademark is recognizable within the disputed domain name, the inclusion of the additional elements does not prevent a finding of confusing similarity.

As noted in [WIPO Overview 3.0](#), section 1.8: "Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity under the first element." Similarly, the gTLD ".org" does not generally preclude a finding of confusing similarity between the disputed domain name and the Complainant's trademarks in accordance with the well-established practice of previous UDRP panels. Therefore, the Panel holds that the combination of the Complainant's trademark TEVA together with a hyphen, geographic abbreviation "usa" and the applicable gTLD suffix ".org" does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's TEVA trademark, which remains clearly recognizable in the disputed domain name.

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the trademark in which the Complainant has rights, meaning that the Complainant has satisfied the requirement under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under the second element of the Policy, a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name. Once such *prima facie* case is made, the burden of production shifts to the respondent to come forward with relevant evidence to rebut that presumption. If the respondent fails to do so, a complainant is generally deemed to have satisfied the second element, as set out in paragraph 4(a)(ii) of the Policy (see also [WIPO Overview 3.0](#), section 2.1).

The Respondent failed to provide any evidence of authorization to use the TEVA trademarks or to register a domain name containing TEVA trademark.

According to the Complainant, the Respondent is not associated or connected with the Complainant in any way, and the Complainant has not granted the Respondent any license or authorization to utilize or register any domain name that includes the Complainant's TEVA trademark. The Respondent has further failed to provide a response to the Complaint, thereby failing to present any information or factors that could potentially justify prior rights or legitimate interests in the disputed domain name. Additionally, there appears to be no evidence of the Respondent engaging in any legitimate or genuine use of the disputed domain name, whether for noncommercial or *bona fide* activities.

The Panel finds that the nature of the disputed domain name, which consists of the Complainant's TEVA trademark, of the hyphen, additional term "usa", suggests an affiliation with the Complainant and for that reason a fair use cannot be constituted (see section 2.5.1 of the [WIPO Overview 3.0](#)).

Based on the above, the Panel finds that the second element of paragraph 4(a)(ii) of the Policy has been met by the Complainant.

C. Registered and Used in Bad Faith

The third element of paragraph 4(a) of the Policy requires a complainant to demonstrate that the respondent registered and is using the disputed domain name in bad faith. [WIPO Overview 3.0](#), section 3.1, states that "bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark".

Paragraph 4(b) of the Policy stipulates that any of the following circumstances, *inter alia*, 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 who is the owner of the trademark 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 trademark 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 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 fact that the disputed domain name comprises a combination of the Complainant's TEVA trademark, hyphen and the additional part "usa" which is closely associated with the Complainant's business. The Complainant has also an online presence through the domain name <tevausa.com>. The website hosted on this domain name <tevausa.com> provides information about the company and its activities. The registration of the domain name which comprise the Complainant trademark, geographical indication "usa" and differ only in hyphen which divide the Complainant trademark and geographical indication and differ in gTLD ".org", reflects that the Respondent was familiar with the Complainant and TEVA trademark. With regard to the bad faith at the time of registration, the Panel finds that it is likely that the Respondent was aware of the Complainant's rights and reputation in the TEVA trademark at the time the disputed domain name was registered. Therefore, the Panel holds that the disputed domain name was registered in bad faith.

The disputed domain name does not resolve to an active website and there is no evidence that the disputed domain name has ever resolved to an active website in the past. The non-use of a domain name does not prevent a finding of bad faith under the doctrine of passive holding if certain circumstances are met (See section 3.3 of the [WIPO Overview 3.0](#)).

Furthermore, the disputed domain name was also offered for sale for USD 199 at Domain Agents, domain name negotiation platform and marketplace, for an amount that exceeds the out-of-pocket costs associated with registration and maintenance of a domain name. This is further evidence of bad faith as per paragraph 4(b)(i) of the Policy.

Furthermore, the Complainant's TEVA trademark should be observed as a trademark that is sufficiently distinctive and that enjoys certain level of reputation. The Respondent has failed to provide any response to the Complaint and has therefore failed to provide any justification for the registration and use of the disputed domain name. Based on the foregoing reasons, the Panel finds that the disputed domain name in the present case should be observed as use in bad faith.

The Panel concludes that the disputed domain name was registered and used in bad faith and that consequently, the Complainant has satisfied the requirement under paragraph 4(a)(iii) 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 <teva-usa.org> be transferred to the Complainant.

/Petra Pecar/

Petra Pecar

Sole Panelist

Date: April 9, 2023