

ADMINISTRATIVE PANEL DECISION

Teva Pharmaceutical Industries Ltd v. Alex Zarei
Case No. D2023-4415

1. The Parties

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

The Respondent is Alex Zarei, United States of America (“United States”).

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 25, 2023. On October 25, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 25, 2023, 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 / Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 26, 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 October 26, 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 notified the Respondent of the Complaint, and the proceedings commenced on November 13, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 3, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 8, 2023.

The Center appointed Gonalo M. C. Da Cunha Ferreira as the sole panelist in this matter on December 21, 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 is an internationally active and widely known pharmaceutical company, established in 1901, has over 53 manufacturing facilities in more than 33 countries and 37,000 employees.

The Complainant is the owner of the TEVA trademark, which is registered in many jurisdictions worldwide, among others:

- International Trademark No. 1319184, registered on June 15, 2016
- European Union Trade Mark No. 001192830, registered on July 18, 2000
- United States Trademark No. 5984626, registered on February 11, 2020

The Complainant is the owner of numerous domain names with the term “teva”, namely <tevausa.com>.

The disputed domain name was registered on September 14, 2023.

The Respondent has used the email address “[...]@tevausajobs.com” to send phishing correspondence to one Internet user after that user made an application through a third-party job site.

This email address includes a name of one of the Complainant’s employees: a talent acquisition delivery leader.

The Complainant’s representative sent a request to the Registrar for the disputed domain name’s suspension and the Registrar proceeded with the suspension placing in the Whois status of “clientHold”.

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:

1. it satisfies the identity/confusing similarity requirement of the first element.
2. the disputed domain name combines the Complainant’s trademark TEVA in full, and this is only preceded by the term “usa” and “jobs”.
3. the trademark TEVA remains clearly recognized in the disputed domain name and the additional terms do not preclude a finding of confusing similarity.
4. the Respondent lacks rights or legitimate interests in the disputed domain name.
5. the Respondent has not registered any trademarks, nor does the Respondent have unregistered trademark rights, for “tevausajobs” or any similar term.
6. the Respondent has not been licensed by the Complainant to register domain names featuring TEVA trademark nor any confusingly similar variant thereof.
7. the Respondent has not used, nor prepared to use, the disputed domain name in connection with a *bona fide* offering of goods or services.
8. the disputed domain name has been used in a connection with a job phishing scam.
9. the Respondent has used an email address “[...]@tevausajobs.com” to send phishing correspondence.

10. the Complainant has presented a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name.
11. the Respondent has both registered and using the disputed domain name in bad faith.
12. the Respondent's specific conjunction of the Complainant's TEVA mark with the country identifier "usa" and descriptor "jobs" makes clear the intention to target United States-based job seekers of the Complainant.

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 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.

Based on the available record, the Panel finds 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 entirety of the mark is reproduced 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 "usa" and "jobs", may bear on assessment of the second and third elements, the Panel finds the addition of such terms 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.

Based on the available record, 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.

Panels have held that the use of a domain name for illegal activity as phishing can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Based on the available record, 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 notes that the Respondent has used the disputed domain name in a connection with a job phishing scam.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may 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.

Panels have held that the use of a domain name for illegal activity here, claimed as applicable to this case: phishing and impersonation 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 Respondent has used the email address "[...][@tevausajobs.com](mailto:tevausajobs.com)" to send phishing correspondence to one Internet user after that user made an application through a third-party job site.

Based on the available record, 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 <tevausajobs.com> be transferred to the Complainant.

/Gonçalo M. C. Da Cunha Ferreira/

Gonçalo M. C. Da Cunha Ferreira

Sole Panelist

Date: January 4, 2024