

ADMINISTRATIVE PANEL DECISION

Teva Pharmaceutical Industries Ltd, Teva Respiratory, LLC, and IVAX International B.V. v. QINGRU WU
Case No. D2024-3551

1. The Parties

The Complainants are Teva Pharmaceutical Industries Ltd, Israel, Teva Respiratory, LLC, United States of America (“United States”), and IVAX International B.V., Netherlands (Kingdom of the), represented by SILKA AB, Sweden.

The Respondent is QINGRU WU, China.

2. The Domain Names and Registrar

The disputed domain names <digihaler.net>, <gorespdigihaler.net>, <proairdigihaler.net> and <tevadigihaler.net> are registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 3, 2024. On September 3, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On September 3, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Redacted for Privacy, See PrivacyGuardian.org) and contact information in the Complaint. The Center sent an email communication to the Complainants on September 4, 2024 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amendment to the Complaint on September 5, 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 September 6, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 26, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 1, 2024.

The Center appointed Louis-Bernard Buchman as the sole panelist in this matter on October 7, 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 First Complainant, Teva Pharmaceutical Industries Ltd, founded in 1901, is one of the largest generic drug manufacturers in the world, with over 50 manufacturing facilities and about 37,000 employees.

The Second and Third Complainants, Teva Respiratory, LLC, and IVAX International B.V., are subsidiaries of the First Complainant, Teva Pharmaceutical Industries Ltd.

The First Complainant, Teva Pharmaceutical Industries Ltd, maintains a portfolio of approximately 3,600 medicines, reaching nearly 200 million people across 58 markets and six continents every day.

The First Complainant, Teva Pharmaceutical Industries Ltd, is the owner of numerous TEVA trademark registrations, including inter alia:

- Israel Trademark registration No. 41075 for TEVA, registered on July 5, 1977;
- United States Trademark registration No. 1567918 for TEVA, registered on November 28, 1989; and
- European Union Trademark registration No. 001192830 for TEVA, registered on July 18, 2000, (collectively hereinafter referred to as the “TEVA Mark”).

The First Complainant, Teva Pharmaceutical Industries Ltd, also owns the <tevapharm.com> domain name, registered in 1996, among many domain names.

The Third Complainant, IVAX International B.V., is the owner of several DIGIHALER trademark registrations, including inter alia the European Union Trademark registration No. 015743172 for DIGIHALER, registered on January 9, 2017 (hereinafter referred to as the “DIGIHALER Mark”) and the European Union Trademark registration No. 018048433 for GORESP DIGIHALER, registered on August 21, 2019 (hereinafter referred to as the “GORESP DIGIHALER Mark”).

The Second Complainant, Teva Respiratory, LLC, is the owner of several PROAIR DIGIHALER trademark registrations, including inter alia the United States Trademark registration No. 5932346 for PROAIR DIGIHALER, registered on December 10, 2019 (hereinafter referred to as the “PROAIR DIGIHALER Mark”).

The TEVA Mark, the DIGIHALER Mark, the GORESP DIGIHALER Mark, and the PROAIR DIGIHALER Mark are together hereinafter referred to as: “the Marks”.

The disputed domain names were registered on June 18, 2024.

The disputed domain names resolved to a third-party domain name reseller platform where they were offered for sale at a price of USD 1,450 each. At the time of this Decision, they still resolve to a third-party domain name reseller platform where they are offered for sale at a price of USD 1,450 each.

5. Parties' Contentions

A. Complainants

The Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

Notably, the Complainants contend that the disputed domain names reproduce the Marks, in which they have rights, and are confusingly similar to the Marks insofar as the disputed domain names contain the Marks, the Marks remaining respectively recognizable in the disputed domain names.

The Complainants also contend that the Respondent has no rights or legitimate interests in respect of the disputed domain names and never had any affiliation with the Complainants (which never authorized the Respondent to use the Marks in any manner).

Furthermore, the Complainants contend that the Respondent had knowledge of the Marks and registered the disputed domain names in bad faith and is also using them in bad faith.

The Complainants request that the disputed domain names be transferred to the First Complainant Teva Pharmaceutical Industries Ltd.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

6.1. Procedural Aspects

A. Request for Consolidation

The Complaint contains a request for consolidation as it was submitted by multiple Complainants. The Panel notes that the Complainants are companies within the same corporate group. Teva Respiratory, LLC and IVAX International B.V. are subsidiaries of Teva Pharmaceutical Industries Ltd, and each of these entities holds one or more trademarks which correspond with the disputed domain names in this proceeding. Notably, Teva Pharmaceutical Industries Ltd holds trademark registrations for TEVA, Teva Respiratory, LLC holds trademarks for DIGIHALER and PROAIR DIGIHALER, and IVAX International B.V. holds trademarks for DIGIHALER and GORESP DIGIHALER.

Furthermore, the disputed domain names having been registered by the same domain-name holder, and on the same date, with the same Registrar, the Panel finds that the Respondent engaged in a common conduct which has affected the Complainants in a similar fashion and that the Complainants have a specific common grievance against the Respondent.

After giving due consideration to paragraph 4.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), the Panel notes that no objection was raised that granting the requested consolidation would be detrimental to the interests of the Respondent.

Accordingly, in the interest of procedural efficiency, the Panel accepts to consolidate the disputes regarding the disputed domain names in a single proceeding. The Panel will henceforth refer to the Complainants as: "the Complainant".

B. Failure to respond

As aforementioned, no Response was received from the Respondent.

Under the Rules, paragraphs 5(f) and 14(a), the effect of a default by the Respondent is that, in the absence of exceptional circumstances, the Panel shall proceed to a decision on the basis of the Complaint.

The Panel does not find any exceptional circumstance in this case which would cause the Panel to proceed differently.

Under paragraph 4(a) of the Policy, it is the Complainants' burden to establish that all three of the required criteria for a transfer of the disputed domain names have been met, even in the event of a default.

Under paragraph 14(b) of the Rules, the Panel is empowered to draw such inferences from the Respondent's default as it considers appropriate under the circumstances.

In this case, the Panel finds that as a result of the default, the Respondent has failed to rebut any of the reasonable factual assertions that are made and supported by evidence submitted by the Complainant. In particular, by defaulting and failing to respond, the Respondent has failed to offer the Panel any of the types of evidence set forth in paragraph 4(c) of the Policy or otherwise, from which the Panel might conclude that the Respondent has any rights or legitimate interests in the disputed domain names, such as making legitimate noncommercial or fair use of the disputed domain name.

Moreover, as discussed below, the Respondent has failed to provide any exculpatory information or reasoning that might have led the Panel to question the Complainants' arguments that the Respondent has acted in bad faith.

6.2. Requirements of Paragraph 4(a) of the Policy

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 trademarks and the disputed domain names. [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 that the Marks are recognizable within the disputed domain names, namely the TEVA Mark and the DIGIHALER Mark are recognizable within the <tevadigihaler.net> and <digihaler.net> disputed domain names, the GORESP DIGIHALER Mark is recognizable within the <gorespdigihaler.net> disputed domain name and the PROAIR DIGIHALER Mark is recognizable within the <proairdigihaler.net> disputed domain name.

Accordingly, the disputed domain names are confusingly similar to the Marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Regarding the generic Top-Level Domain ("gTLD") ".net" in the disputed domain names, it is well established that a gTLD does not generally affect the assessment of a domain name for the purpose of determining identity or confusingly similarity. [WIPO Overview 3.0](#), section 1.11.1.

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.

While 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 often impossible 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. 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 record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names. 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 names such as those enumerated in the Policy or otherwise.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

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.

In the present case, the Panel finds that the Respondent's decision to register four disputed domain names on the same date, each incorporating one or more of the Marks, reflects the Respondent's specific targeting of the Complainant, his knowledge of the composition of the Complainant's corporate group and his clear intent to capitalize on the Complainant's rights, demonstrated by his attempt to attract Internet users for commercial gain by using the disputed domain names to resolve to a platform offering the disputed domain names for sale.

Moreover, the Respondent seems to have engaged in a pattern of conduct of cybersquatting, as it previously targeted another drug manufacturer (see *Ferring B.V. v. QINGRU WU*, WIPO Case No. [DCO2023-0085](#)) or another industry (see *Sopra Steria Group v. QINGRU WU*, WIPO Case No. [DCO2023-0100](#)).

Furthermore, some UDRP panels have held that in certain circumstances, registrants of domain names have a duty to abstain from registering and using a domain name, which is either identical or confusingly similar to a prior trademark held by others and which would infringe upon or otherwise violate the rights of a third party. See Policy, paragraph 2(b); *Nike, Inc. v. B. B. de Boer*, WIPO Case No. [D2000-1397](#); *Nuplex Industries Limited v. Nuplex*, WIPO Case No. [D2007-0078](#); *Mobile Communication Service Inc. v. WebReg, RN*, WIPO Case No. [D2005-1304](#); *BOUYGUES v. Chengzhang, Lu Ciagao*, WIPO Case No. [D2007-1325](#); *Media General Communications, Inc. v. Rarenames, WebReg*, WIPO Case No. [D2006-0964](#); and *mVisible Technologies, Inc. v. Navigation Catalyst Systems, Inc.*, WIPO Case No. [D2007-1141](#).

As a consequence, the Panel finds that the registration and use of the disputed domain names by the Respondent constitutes bad faith under the Policy.

Based on the available record, the Panel finds the third element of the Policy has been established.

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 names <digihaler.net>, <gorespdigihaler.net>, <proairdigihaler.net>, and <tevadigihaler.net> be transferred to the First Complainant Teva Pharmaceutical Industries Ltd.

/Louis-Bernard Buchman/

Louis-Bernard Buchman

Sole Panelist

Date: October 15, 2024