

ADMINISTRATIVE PANEL DECISION

Teva Pharmaceutical Industries Limited v. Joseph Waweru, Joseph Waweru
Case No. D2022-0955

1. The Parties

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

The Respondent is Joseph Waweru, Joseph Waweru, Kenya.

2. The Domain Name and Registrar

The disputed domain name <teva-pharms.com> is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 18, 2022. On March 18, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 18, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on March 21, 2022, 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 March 22, 2022.

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 March 29, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 18, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 19, 2022.

The Center appointed Marilena Comanescu as the sole panelist in this matter on April 26, 2022. 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 a leading global pharmaceutical company that was established in 1901, currently being one of the world's largest generic medicines producer, leveraging a portfolio of more than 1,800 molecules to produce a wide range of generic products. The Complainant produced approximately 120 billion tablets and capsules in 2017 at dozens of manufacturing facilities worldwide, being active in over 60 countries and employing approximately 45,000 people around the world.

The Complainant holds trademark registrations for TEVA and TEVAPHARM, such as the following:

- the United States of America Trademark Registration no. 1567918 for TEVA, filed on December 8, 1998 and registered on May 30, 2000, covering goods in the International Class 5; and
- the European Union Trademark Registration No. 018285645 for TEVAPHARM, filed on August 6, 2020 and registered on January 9, 2021, covering goods and services in the International Classes 5 and 44.

The Complainant holds domain name registrations incorporating TEVA and TEVAPHARM, such as <tevapharm.com> created on June 14, 1996 or <tevapharm.us> created on April 24, 2002.

The disputed domain name <teva-pharms.com> was registered on March 2, 2022, and, according to the evidence provided in the Complaint, it was used in connection with a website featuring the TEVA logo and providing links to Complainant's global websites in various countries. At the bottom of the website there is a copyright text inserted "Copyright (c) 2022 Teva Pharmaceutical Industria Ltd".

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to its domain name and trademarks TEVA and TEVAPHARM with a hyphen and one additional letter "s"; the Respondent has no rights or legitimate interests in the disputed domain name; and the Respondent registered and is using the disputed domain name in bad faith. The Complainant requests the transfer of the disputed domain name to it.

B. Respondent

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

6. Discussion and Findings

In view of the absence of a Response, the discussion and findings will be based upon the contentions in the Complaint and any reasonable position that can be attributable to the Respondent. Under paragraph 4(a) of the Policy, a complainant can only succeed in an administrative proceeding under the Policy if the following circumstances are met:

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

The Panel will further analyze the potential concurrence of the above circumstances.

A. Identical or Confusingly Similar

The Panel finds that the Complainant holds rights in the TEVA and TEVAPHARM trademarks.

The Panel notes that the disputed domain name <teva-pharms.com> incorporates the Complainant's trademark TEVA with one additional term "pharms" and the trademark TEVAPHARM with a hyphen and one additional letter "s". However, such alterations do not prevent a finding of confusing similarity as the Complainant's trademark is clearly recognizable within the disputed domain name.

In accordance with section 1.7 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), 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.

Numerous UDRP panels have considered that the addition of other terms (whether geographical wording, descriptive, pejorative, meaningless or otherwise) to trademarks and domain name consisting of a misspelling of the complainant's trademark (*i.e.*, typosquatting) do not prevent a finding of confusing similarity. See sections 1.8 and 1.9 of the [WIPO Overview 3.0](#).

Further, it is well established in decisions under the UDRP that the generic Top-Level Domain ("gTLD") (*e.g.*, ".com", ".info", ".org") may typically be disregarded for the purposes of consideration of confusing similarity between a trademark and a domain name. See section 1.11 of the [WIPO Overview 3.0](#).

Given the above, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademarks, pursuant to the Policy, paragraph 4(a)(i).

B. Rights or Legitimate Interests

The Complainant asserts that it has given no license or other right to use its trademark to the Respondent, that the Respondent is not commonly known by the disputed domain name, and that the Respondent has not used the disputed domain name in connection with a legitimate non-commercial or fair use or a *bona fide* offering of goods and services.

Under the Policy, a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests. Once such *prima facie* case is made, the burden of production shifts to the respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such appropriate allegations or evidence, a complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the UDRP. See section 2.1 of the [WIPO Overview 3.0](#).

The Respondent has not replied to the Complainant's contentions to advance a claim to any rights or legitimate interests in the disputed domain name.

According to the records before the Panel, the Respondent has used the disputed domain name in connection with a website featuring Complainant's trademarks, providing links to Complainant's international websites and claiming copyright protection on such content. UDRP panels have constantly found that the use of a domain name to falsely suggest affiliation with the trademark owner does not represent a fair use. See section 2.5 of the [WIPO Overview 3.0](#).

For all these reasons, the Panel finds that the second element of the Policy is established, and the Respondent has no rights or legitimate interests in respect of the disputed domain name, pursuant to the Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

The Complainant has been operating its business since 1901, holding trademark rights for TEVA and TEVAPHARM since at least 1989, domain name registration for <tevapharm.com> since 1996, and has established a reputation worldwide in its field of activity.

The disputed domain name was created in 2022.

From the above, the Panel finds that the Respondent was aware of the Complainant, its business and trademark at the time of the registration of the disputed domain name.

At the time of filing the Complaint, the disputed domain name was used in connection with a website featuring the Complainant's trademarks, providing links to the Complainant's international websites and claiming copyright protection on such content.

Paragraph 4(b)(iv) of the Policy provides that the use of a domain name to intentionally attempt "to attract, for commercial gain, Internet users to [the respondent's] website or other on-line 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 [the respondent's] website or location" is evidence of registration and use in bad faith.

The Respondent was using without permission the Complainant's trademark in order to get traffic on its web portal and thus to potentially obtain commercial gain from the false impression created with regard to a potential affiliation or connection with the Complainant. This impression is created particularly by the incorporation of the Complainant's well-known trademark in the disputed domain name, the content on the website provided thereunder which includes the Complainant's trademarks, links to the Complainant's official websites any copyright claim. This conduct is evidence of registration and use in bad faith.

Furthermore, it was consistently found by previous UDRP panels that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos) to a third party's famous or widely-known trademark constitutes, by itself, a presumption of bad faith registration for the purpose of Policy. See section 3.1.4 of the [WIPO Overview 3.0](#).

For all the above reasons, the Panel finds that the Respondent registered and is using the disputed domain name in bad faith, pursuant to the Policy, paragraph 4(a)(iii).

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-pharms.com> be transferred to the Complainant.

/Marilena Comanescu/

Marilena Comanescu

Sole Panelist

Date: May 10, 2022