

## **ADMINISTRATIVE PANEL DECISION**

TEVA Pharmaceutical Industries Limited v. James Andrew  
Case No. D2022-3405

### **1. The Parties**

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

The Respondent is James Andrew, United States of America (“United States”).

### **2. The Domain Names and Registrar**

The disputed domain names <teva-america.com> and <usa-teva.com> are registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 13, 2022. On September 14, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On September 15, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 19, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 9, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 11, 2022.

The Center appointed Tobias Zuberbühler as the sole panelist in this matter on October 18, 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 pharmaceutical company operating in sixty countries worldwide, and the world's largest generic medicines producer.

The Complainant owns trademark registrations in various jurisdictions, including the United States trademark TEVA (Registration No. 1567918, registered on November 28, 1989) and the United States trademark TEVA (Registration No. 2353386, registered on May 30, 2000).

The Complainant further holds the domain name <tevapharm.com> under which the official website of the Complainant is available. The Complainant holds various other domain names incorporating the Complainant's trademark, including the domain name <tevausa.com>. The Complainant advertises and sells its services through its <tevapharm.com> domain name.

The disputed domain names were both registered on July 26, 2022, and resolve to inactive pages.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant alleges that it has satisfied all elements of the Policy, paragraph 4.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

Based on the facts and evidence introduced by the Complainant, and with regard to paragraphs 4(a), (b) and (c) of the Policy, the Panel concludes as follows:

##### **A. Identical or Confusingly Similar**

The Complainant has submitted sufficient evidence to demonstrate its registered rights in the TEVA trademark.

The TEVA trademark is wholly reproduced in the disputed domain names.

A domain name is "identical or confusingly similar" to a trademark for the purposes of the Policy when the domain name includes the trademark, or a confusingly similar approximation, regardless of other terms in the domain name (*Wal-Mart Stores, Inc. v. Richard MacLeod d/b/a For Sale*, WIPO Case No. [D2000-0662](#)). As stated in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8, "[w]here the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The nature of such additional term(s) may however bear on assessment of the second and third elements". Hence, the Panel holds that the addition of the terms and hyphens "-america" or "usa-" to the Complainant's TEVA trademark does not prevent a finding of confusing similarity between the disputed domain names and the Complainant's trademark.

The Complainant has thus fulfilled the requirements of paragraph 4(a)(i) of the Policy.

## **B. Rights or Legitimate Interests**

There are no indications before the Panel of any rights or legitimate interests of the Respondent in respect of the disputed domain names. The Complainant contends that the Respondent is neither affiliated with the Complainant nor making any *bona fide* use of the disputed domain names.

Furthermore, the composition of the disputed domain names, wholly incorporating the Complainant's trademark and the geographical term "america" or "usa", cannot constitute fair use in these circumstances as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See [WIPO Overview 3.0](#), section 2.5.1.

The Panel finds that the Complainant, having made out a *prima facie* case which remains unrebutted by the Respondent, has fulfilled the requirements of paragraph 4(a)(ii) of the Policy.

## **C. Registered and Used in Bad Faith**

Panelists have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. The totality of the circumstances in each case will be examined, and factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing of its identity or use of false contact details, and (iv) the implausibility of any good faith use to which the domain name may be put (see [WIPO Overview 3.0](#), section 3.3).

Under the circumstances of this case, including the composition of the disputed domain names and reputation of the Complainant's trademark, the Panel finds that the Respondent was most likely aware of the Complainant's trademark when registering the disputed domain names. The Respondent has not submitted any response, and the Panel sees no plausible good faith use to which the inherently misleading disputed domain names may be put. Hence, the Panel finds it more likely than not that the Respondent was targeting the Complainant and the goodwill it has obtained for its trademark TEVA. The Panel also notes that screening of trademark registrations is readily available through online databases (or by a mere Internet search) to avoid the registration of trademark-abusive domain names.

In the totality of circumstances of this case, the Panel finds that the Respondent has therefore registered and is using the disputed domain names in bad faith.

Accordingly, the Complainant has also fulfilled 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 names <teva-america.com> and <usa-teva.com> be transferred to the Complainant.

*/Tobias Zuberbühler/*

**Tobias Zuberbühler**

Sole Panelist

Date: October 24, 2022