

## **ADMINISTRATIVE PANEL DECISION**

TEVA Pharmaceutical Industries Limited v. Felix Rimele  
Case No. D2023-3419

### **1. The Parties**

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

The Respondent is Felix Rimele, United States of America.

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

The disputed domain name <tevaceuticals.shop> is registered with HOSTINGER operations, UAB (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on August 10, 2023. On August 11, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 14, 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 (Domain Admin, Privacy Protect LLC (PrivacProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 15, 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 August 21, 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 August 28, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 17, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 18, 2023.

The Center appointed Nayiri Boghossian as the sole panelist in this matter on October 4, 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 has been operating since 1901 and currently operates in sixty countries and is ranked amongst the top pharmaceutical companies in the world.

The Complainant owns many trademark registrations for TEVA such as International trademark registration No. 41075 registered on July 5, 1977.

The disputed domain name was registered on July 2, 2023, and resolves to an error page.

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

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

The Complainant contends that the disputed domain name is identical or confusingly similar to the Complainant's trademark.

The Complainant has adopted the trademark TEVA since 1975, which has acquired a secondary meaning. The disputed domain name incorporates the Complainant's trademark in its entirety. The generic Top-Level-Domain (gTLD) ".com" does not differentiate the disputed domain name from the trademark.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name.

The Complainant has adopted the trademark TEVA since 1975 while the disputed domain name was registered in 2023. The Complainant did not license the Respondent to use its trademark in the disputed domain name and there is no relationship between them. The choice of the disputed domain name was not done in good faith. MX records are registered and activated in connection with the disputed domain name. There is an intention for phishing or other fraudulent activity with an intention to pass off as the Complainant. There is no legitimate noncommercial or fair use of the disputed domain name. There is no demonstrable preparation to use the disputed domain name in connection with a *bona fide* offering of goods or services. The Respondent is not commonly known by the disputed domain name.

The Complainant contends that the disputed domain name was registered and is being used in bad faith.

The Complainant is a world leader in its field and has been operating since 1901 using the trademark TEVA. The Respondent knew or should have known of the Complainant's trademark. The Complainant's trademark is well known and a simple online search will reveal that "TEVA Ceuticals" is associated with the Complainant. Activating the MX records is in certain circumstances an indication of bad faith. There is also passive holding which indicates bad faith. The Respondent has used privacy service, which is an indication of bad faith. This is a case of opportunistic bad faith.

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

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

## 6. Discussion and Findings

### A. Identical or Confusingly Similar

The Complainant owns trademark registrations for TEVA. The Panel is satisfied that the Complainant has established its ownership of the trademark TEVA.

The disputed domain name incorporates the Complainant's trademark TEVA in its entirety. It is established by prior UDRP panels that when a domain name incorporates a complainant's registered trademark, such incorporation is sufficient to establish identity or confusing similarity for the purposes of the Policy even if other terms are added as part of the disputed domain name. *E.g., Oki Data Americas, Inc v. ASD, Inc.*, WIPO Case No. [D2001-0903](#) ("*Oki Data*").

The addition of the term "ceuticals" does not alter the fact that the disputed domain name is confusingly similar to the Complainant's trademark. The gTLD ".shop" can be ignored when assessing confusing similarity as it is viewed as a standard registration requirement.

Consequently, the Panel finds that the disputed domain name is confusingly similar to the trademark of the Complainant and that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

### B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant must make at least a *prima facie* showing that a respondent does not have any rights or legitimate interests in the disputed domain name. Once such showing is made, the burden of production of evidence shifts to the respondent. In the instant case, the Complainant asserts that the Respondent is not licensed by the Complainant to use its trademark and the Respondent is not commonly known by the disputed domain name. Therefore, the Complainant has established a *prima facie* case, and the burden of production of evidence shifts to the Respondent to show that it has rights or legitimate interests.

The absence of a response by the Respondent allows the Panel to draw inferences, and under the circumstances, the absence of a response leaves the Complainant's *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name unrebutted.

Consequently, the Panel finds that the Complainant has met the requirement under the Policy of showing that the Respondent does not have any rights or legitimate interests in the disputed domain name. Accordingly, the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

### C. Registered and Used in Bad Faith

At the time of registering the disputed domain name, the Respondent must have been aware of the Complainant's trademark for a number of reasons:

- (i) The Complainant's trademark had been registered almost 50 years before the disputed domain name was created.
- (ii) A simple Google search on TEVA reveals the Complainant's business.
- (iii) The disputed domain name contains the term "ceuticals", which relates to the Complainant's industry.

The disputed domain name resolves to an inactive website. Prior UDRP panels have found that passive holding does not prevent a finding of bad faith if the totality of circumstances supports an inference of bad faith. See section 3.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). Noting the concealment of the Respondent's identity using a privacy service, the Respondent's failure to provide any good-faith explanation for his registration and use of the inherently

misleading disputed domain name and the absence of a plausible use of the disputed domain name that would be legitimate (*Johnson & Johnson v. Daniel Wistbacka*, WIPO Case No. [D2017-0709](#)), the Panel finds that the current passive holding of the disputed domain name does not prevent the Panel's bad faith finding.

Accordingly, the Panel finds that the Complainant has satisfied 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, <tevaceuticals.shop>, be transferred to the Complainant.

*/Nayiri Boghossian/*

**Nayiri Boghossian**

Sole Panelist

Date: October 16, 2023