

ADMINISTRATIVE PANEL DECISION

Teva Pharmaceutical Industries Ltd v. judas ayoze
Case No. D2024-0174

1. The Parties

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

The Respondent is judas ayoze, United States of America.

2. The Domain Name and Registrar

The disputed domain name <tevahparm.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 January 16, 2024. On January 16, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 16, 2024, the Registrar transmitted by email to the Center its verification disclosing the 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 January 22, 2024, 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 January 22, 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 February 1, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 21, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 22, 2024.

The Center appointed Andrea Cappai as the sole panelist in this matter on March 5, 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 Complainant, an entity of international repute in the pharmaceutical sector established in 1901, is known for its extensive portfolio comprising approximately 3,600 products. These products are accessible to nearly 200 million people across 60 countries on six continents. The Complainant operates over 53 manufacturing facilities across more than 33 countries, employing some 37,000 individuals. The Complainant operates <tevapharm.com>, a domain name registered in 1996.

The Complainant holds several trademarks for TEVA, along with registrations for TEVA PHARM and TEVAPHARM, encompassing a broad range of jurisdictions globally. Noteworthy registrations include:

- European Union Trademark registration number 018285645, TEVAPHARM, registered on 09/01/2021.
- Israel Trademark registration number 164291, TEVA PHARM, registered on 05/05/2004.
- European Union Trademark registration number 001192830, TEVA, registered on 18/07/2000.
- United States of America Trademark registration number 1567918, TEVA, registered on 28/11/1989.

Additionally, the Complainant possesses various domain names incorporating the TEVA mark, designed for different international jurisdictions, such as <tevausa.com> for the United States of America, <teva.uk.com> for the United Kingdom, and <teva.italy.it> for Italy.

The Respondent does not appear to have any known connection or affiliation with the Complainant. The Complainant asserts that it has not granted any authorization for the use of its trademarks to the Respondent.

The Whois data, in the absence of additional information from the Respondent, does not suggest that the Respondent is known or has any association with the Complainant's trademarks.

The disputed domain name was registered on January 4, 2024. As it presently stands, the disputed domain name resolves to a pay-per-click ("PPC") advertising webpage, featuring third-party commercial advertising links that are related to the Complainant's operations.

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 it holds extensive trademark registrations for TEVA, including TEVA PHARM and TEVAPHARM, across various jurisdictions. These trademarks, alongside the domain name <tevapharm.com> registered in 1996, have contributed significantly to the Complainant's goodwill and recognition, positioning TEVA as a distinctive identifier of its goods and services.

The Complainant asserts it meets the identity or confusing similarity criterion of the first element. The disputed domain name not only incorporates the TEVA mark fully but mirrors the sequence found in the Complainant's main international website and its trademarks, save for an alteration in the letter arrangement ("p" and "h"). This preserves the TEVA mark's prominence and recognizability within the disputed domain name.

The Complainant posits that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant notes the absence of any trademarks registered by the Respondent that resemble “tevahparm” or any variant thereof. Furthermore, the Complainant highlights that it has not authorized the Respondent to register domain names that incorporate the TEVA marks or their confusingly similar iterations. The Complainant also suggests the Respondent has neither used nor intended to use the disputed domain name for any bona fide offering of goods or services, or for any legitimate noncommercial or fair use.

The Complainant alleges that the Respondent is unjustly profiting from and possibly generating pay-per-click revenue from Internet users who mistakenly type “tevahparm.com” into their browsers, aiming to visit the Complainant’s website. This assumption is supported by the fact that the Respondent, to the best of the Complainant’s knowledge, has never been associated with the TEVA marks or any closely resembling term. There is no evidence of connection, affiliation, licensure, or consent regarding the use of the TEVA marks in any capacity by the Respondent.

Highlighting its substantial goodwill and the wide-reaching recognition of the TEVA brand, the Complainant notes its trademarks’ registration dates back over 40 years, with its products and services reaching approximately 200 million consumers daily across 60 countries. The TEVA marks’ recognizability is further evidenced by their presence in publicly accessible trademark databases and the Google search engine’s tendency to direct “tevahparm” searches towards the Complainant’s offerings, suggesting minimal due diligence would reveal the Complainant’s rights in the TEVA brand.

Furthermore, the Complainant contends that the misspelling of <tevapharm.com> as <tevahparm.com> indicates the Respondent’s awareness and targeting of the Complainant by registering the disputed domain name. According to the Complainant, such an act of typosquatting is designed to mislead and divert Internet users seeking the Complainant’s official website, thus constituting registration in bad faith.

The Complainant submits that the Respondent has intentionally attempted to attract, for commercial gain, internet users by creating a likelihood of confusion with the TEVA marks. Such conduct constitutes bad faith use.

Lastly, the Complainant asserts that the disputed domain name’s configuration with multiple MX records hints at the Respondent’s intention to exploit the Complainant’s brand for email phishing or other fraudulent schemes. Given the disputed domain name’s typosquatting nature, it may misleadingly suggest an association with “tevahparm”, thus deceiving users into providing sensitive information under the false impression of communicating with the Complainant, thereby facilitating potentially fraudulent activities.

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.

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 marks are recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The disputed domain name incorporates the Complainant's TEVA mark in its entirety, as well as the trademarks TEVA PHARM and TEVAPHARM, with the sole exception being the subtle yet strategic transposition of the letters "p" and "h". The recognisability of the marks within the disputed domain name's configuration remains indisputable.

The deliberate alteration of letters within the disputed domain name, while seemingly minor, plays a significant role in creating a connection in the minds of the public between the disputed domain name and the Complainant's established trademarks. It is a well-established principle that a domain name embodying a common, evident, or deliberate misspelling of a trademark is deemed confusingly similar to the pertinent mark for the purposes of the initial element, according to [WIPO Overview 3.0](#), section 1.9.

Furthermore, the disputed domain name's ".com" suffix is a typical registration convention and is generally disregarded in the confusing similarity assessment under the first criterion, according to [WIPO Overview 3.0](#), section 1.11.1.

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.

Paragraph 4(c) of the Policy specifies the scenarios under which a party may establish a legitimate interest or right over a domain name. This involves the actual use or concrete preparations for the use of the domain name in a bona fide offering of goods or services prior to the emergence of any dispute. Additionally, it encompasses situations where a party has been commonly recognized by the domain name, regardless of possessing formal trademark or service mark rights, and instances of legitimate noncommercial or fair use of the domain name without the intent of misleadingly diverting consumers or tarnishing any trademark or service mark.

The Respondent has neither utilised nor shown intentions to use the disputed domain name for any legitimate commercial offerings or for any bona fide noncommercial purposes. Presently, the disputed domain name directs to a website featuring PPC links to third-party sites, some of which are in direct competition with the Complainant's operations, notably in the pharmaceutical manufacturing sector. This manner of use, particularly hosting a parked page that comprises PPC links competing with or exploiting the

goodwill of the Complainant's mark, fails to align with the essence of a bona fide offering. It rather appears to leverage, potentially for PPC revenue, the mistyping by Internet users aiming to visit the Complainant's official site, "www.tevapharm.com".

The available records thus underscore that the disputed domain name has not been employed in connection with any bona fide offering of goods or services or any legitimate noncommercial or fair use. Moreover, the Respondent lacks any formal association, affiliation, or authorization from the Complainant to use the TEVA marks, nor has it registered any trademarks or appear to possess unregistered trademark rights to "tevahparm" or any closely related term. The mere possession of a domain name, as established in previous UDRP decisions, does not inherently grant the holder any rights or legitimate interests in said domain name.

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.

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.

The Complainant has accrued rights in the TEVA brand, established over four decades ago. The brand's presence extends to some 200 million consumers daily across 60 countries and six continents, underlining its global renown. This widespread recognition is easily verifiable in public trademark databases, such as WIPO's Global Brand Database.

The deliberate misspelling of the Complainant's domain name, from <tevapharm.com> to <tevahparm.com>, evidences the Respondent's awareness of and intent to target the Complainant by registering the disputed domain name. This action, designed to capture traffic from Internet users who mistakenly type the Complainant's website address, demonstrates an intention to mislead for commercial gain. This is further illustrated by the disputed domain name resolving to a PPC site that not only competes with but also exploits the Complainant's trademark reputation by diverting users to third-party services, notably in the same pharmaceutical sector as the Complainant.

Such tactics align with the conditions of bad faith outlined in paragraph 4(b)(iv) of the Policy, whereby the Respondent has intentionally sought to attract Internet users for commercial gain by creating confusion with the TEVA marks. This confusion is not incidental but a calculated effort to exploit the Complainant's trademarks' value, misleading users into visiting a site that capitalises on this confusion to the Respondent's benefit.

Moreover, the operational setup of the disputed domain name, with multiple MX (mail exchange) records, suggests preparations for engaging in further deceptive activities, such as email phishing. This setup would aim to exploit the typosquatting nature of the disputed domain name, encouraging the belief among Internet users that communications from addresses ending in "@tevahparm.com" are, mistakenly, associated with the Complainant.

Considering the above, the Panel finds clear evidence of both the registration and use of the disputed domain name in bad faith, contravening the stipulations set forth under paragraph 4(b) of the Policy. The Respondent's actions all serve to confirm this bad faith intent.

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 <tevahparm.com> be transferred to the Complainant.

/Andrea Cappai/

Andrea Cappai

Sole Panelist

Date: March 19, 2024