

ADMINISTRATIVE PANEL DECISION

Teva Pharmaceutical Industries Ltd v. Carolina Rodrigues, Fundacion Comercio Electronico
Case No. D2024-1100

1. The Parties

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

The Respondent is Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

2. The Domain Name and Registrar

The disputed domain name <tevaapharm.com> (the “Domain Name”) is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 13, 2024. On March 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On March 13, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 18, 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 March 19, 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 March 22, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 11, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 16, 2024.

The Center appointed Jacques de Werra as the sole panelist in this matter on April 26, 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, established in 1901, is an internationally active pharmaceutical company. The Complainant maintains a portfolio of approximately 3,600 products, and its medicines reach nearly 200 million people across 60 countries and six continents every day. The Complainant has over 50 manufacturing facilities and approximately 37,000 employees. It operates the website associated with the domain name <tevapharm.com> which was registered in 1996.

The Complainant owns many word trademarks for TEVA including in Israel (No. 41075, registered on July 5, 1977, and covering goods in class 5); in the United States of America (No. 1567918, registered on November 28, 1989, and covering goods in class 5); and in the European Union (No. 001192830, registered on July 18, 2000, and covering goods in classes 3, 5, and 10).

The Complainant also owns a word trademark for TEVA PHARM in Israel (No. 164291, registered on May 5, 2004 and covering goods in class 5); as well as a European Union word trademark for TEVAPHARM (No. 018285645, registered on January 9, 2021, and covering goods in class 5 and services in class 44). All these trademarks will be referred to as the "TEVA Marks".

The Domain Name was registered on February 21, 2024. It resolves to a site which, under categories such as "Pharmaceutical Company" and "Pharma Company", brandishes pay-per-click ("PPC") links to third party sites and services, some of which compete with the Complainant (e.g., relating to/associated with the pharmaceutical industry).

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 Domain Name.

Notably, the Complainant contends that it satisfies the identity/confusing similarity requirement of the first element because the Domain Name consists of the Complainant's TEVA mark in full and that it is identical to the Complainant's trademarks TEVA PHARM and TEVAPHARM but for the addition of an "a" after "teva" and before "pharm".

The Complainant further submits that the Respondent lacks rights or legitimate interests in the Domain Name. To the best of the Complainant's knowledge, the Respondent has not registered any trademarks, nor does the Respondent have unregistered trademark rights, for "tevaapharm" or any similar term. Additionally, the Respondent has not been licensed by the Complainant to register domain names featuring the TEVA Marks, nor any confusingly similar variants thereof. Paragraph 4(c) of the Policy stipulates some circumstances in which a respondent may demonstrate that it has a right or legitimate interest in a domain name. The Complainant submits that none of the scenarios confer the Respondent with rights or legitimate interests in the present matter. The Complainant consequently claims to have presented a prima facie case that the Respondent lacks rights or legitimate interests in the Domain Name for the purposes of paragraph 4(a)(ii) of the Policy.

The Complainant further claims that in view of the substantial goodwill and recognition of the TEVA brand, the simplest degree of due diligence would have otherwise made a registrant of the Domain Name aware of the Complainant's rights in the globally renowned TEVA brand so that it can be concluded that the Respondent registered the Domain Name in bad faith.

The Complainant further submits that the Respondent's misspelling of the string for the Complainant's domain name constitutes further evidence of the Respondent's prior awareness and targeting of the Complainant through its registration of the Domain Name. The Respondent's selection of "tevaapharm.com" reflects its intention to misleadingly capture and divert Internet users attempting to, but who have inadvertently mistyped, the string of the Complainant's official website in a URL bar. The Domain Name was therefore undoubtedly registered in bad faith.

The Complainant further submits that the Respondent has used the Domain Name in bad faith because the Respondent has intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the TEVA Marks. Given that the Domain Name comprises a typosquatting variation of the Complainant's main domain name <tevapharm.com> in addition to the TEVA PHARM and TEVAPHARM marks owned by the Complainant, the Respondent capitalises on this misspelling to misleadingly divert and drive traffic, intended for the Complainant's official offerings, to a PPC site. The PPC links at the resolving site, rather than reflecting some legitimate/generic interpretation of the Domain Name's string, capitalise on the value of the TEVA Marks and divert Internet users to third party sites, some of which compete with the Complainant (e.g., relating to/associated with the pharmaceutical industry). Such conduct constitutes bad faith use under paragraph 4(b)(iv).

The Complainant lastly submits that the Respondent has configured the Domain Name with an MX (mail exchange) record, and this conduct is indicative of the Respondent's intention to capitalise on the Complainant by engaging in email phishing or other fraudulent activities. This inference is strong given the typosquatting nature of the Domain Name which, by its composition, is intended to give Internet users the false impression that it reads "tevapharm". Internet users receiving emails from an address ending in "[...].@tevaapharm.com" are, having misread the string, likely to think such correspondence is from or associated with the Complainant. This may result in confused Internet users unknowingly providing the Respondent with sensitive information, which the latter may use to engage in fraudulent activities.

Upon disclosure of the Respondent's identity, the Complainant has further claimed that the Respondent has been involved in numerous of previous UDRP proceedings which further supports that the Domain Name was also registered in bad faith.

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 entirety of the TEVA mark is reproduced within the Domain Name and the entirety of the TEVA PHARM and of the TEVAPHARM marks is also reproduced within the Domain Name but for the addition of an “a” after “teva” and before “pharm”.

Accordingly, the Domain Name is confusingly similar to the TEVA and TEVAPHARM marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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 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 Domain Name such as those enumerated in the Policy or otherwise.

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.

In the present case, the Panel notes that by using the Domain Name to divert Internet users to commercial parking pages with PPC links related to products that compete with those offered by the Complainant under the Mark, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the website associated with the Domain Name by creating a likelihood of confusion with the Complainant’s mark as to the Domain Name’s source, sponsorship, affiliation or endorsement, an activity clearly detrimental to the Complainant’s business pursuant to paragraph 4(b)(iv) of the Policy. See e.g., *Williams-Sonoma, Inc. v. Wesley Karr, Power Click*, WIPO Case No. [D2022-3915](#).

In addition, the Panel finds that the Respondent’s configuration of MX records in respect of the Domain Name and the fact that the Respondent is a serial cybersquatter which has been involved in numerous prior UDRP cases as a respondent in which the transfer was issued, are further circumstances demonstrating bad faith registration and use. See, for example, *Fox Media LLC v. Domain Admin, Privacy Protect, LLC (PrivacyProtect.org) / AIDA GONZALEZPEREZ GONZALEZPEREZ*, WIPO Case No. [D2022-0120](#); *Equinor ASA v. Joe Bright Nyarko, Apt Support Ventures*, WIPO Case No. [D2021-4131](#); and *Compagnie Générale des Etablissements Michelin v. Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2023-0994](#).

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 <tevaapharm.com> be transferred to the Complainant.

/Jacques de Werra/

Jacques de Werra

Sole Panelist

Date: May 24, 2024