

ADMINISTRATIVE PANEL DECISION

Teva Pharmaceutical Industries Ltd v. kop pite, andersoncommunities
Case No. D2024-1556

1. The Parties

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

The Respondent is kop pite, andersoncommunities, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <tevapham.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 April 12, 2024. On April 12, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 12, 2024, 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 (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 April 16, 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 April 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 April 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 16, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 22, 2024.

The Center appointed Alfred Meijboom as the sole panelist in this matter on May 28, 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 is a pharmaceutical company which was established in 1901 and has currently over 50 manufacturing facilities and about 37,000 employees. The Complainant maintains a portfolio of approximately 3,600 products, and its medicines reach nearly 200 million people across 60 countries every day. The Complainant and its affiliated companies own many domain names which encompass the TEVA mark, tailored for different jurisdictions around the world, such as <tevausa.com> for the United States and <tevauk.com> for the United Kingdom, and it owns the domain name <tevapharm.com> since 1996, which resolves to the Complainant's main international website.

The Complainant owns numerous trademarks comprising TEVA worldwide, including:

- United States trademark TEVA with registration number 1567918 of November 28, 1989;
- Israeli trademark TEVA PHARM with registration number 164291 of May 5, 2004; and
- European Union trademark TEVAPHARM with registration number 018285645 of January 9, 2021.

The disputed domain name was registered on March 18, 2024, and resolves to an inactive parked page which is titled "Whois verification is pending" and suggests the disputed domain name has been suspended.

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 the disputed domain name is confusingly similar to the Complainant's TEVA, TEVA PHARM and TEVAPHARM trademarks as identified above (the "TEVA Mark") as it consists of the TEVA Mark in full and is nearly identical to the string of its main international website at "www.tevapharm.com" as well as the Complainant's above identified trademarks TEVA PHARM and TEVAPHARM but for the removal of the "r" from "pharm".

The Complainant alleges that the Respondent has no rights or legitimate interests in the disputed domain name because, to the best of the Complainant's knowledge, the Respondent has not registered any trademarks, nor does the Respondent have unregistered trademark rights for the disputed domain name or a similar term. The Respondent has also not been licensed by the Complainant to register a domain name featuring the TEVA Mark, or any variant thereof. Further, the Complainant alleges that the Respondent has not used, nor prepared to use, the disputed domain name in connection with a bona fide offering of goods or services, nor a legitimate noncommercial or fair use, and the Respondent's use of the disputed domain name cannot be considered fair as its typosquatting nature capitalizes on, and unfairly diverts Internet users seeking, the Complainant's offerings.

The Complainant alleges that the Respondent has registered the disputed domain name in bad faith as the simplest degree of due diligence would have made it aware of the Complainant's rights in the globally renowned TEVA Mark, while the Respondent's selection of the disputed domain name reflects its intention to misleadingly capture and divert Internet users attempting to reach, but who have inadvertently mistyped the string of, the Complainant's official website in a URL bar. Furthermore, the Complainant alleges that the Respondent also used the disputed domain name in bad faith because passive holding can also constitute bad faith and there is no evidence of the Respondent having made, or having attempted to make, any good faith, legitimate noncommercial or fair use of the disputed domain name, or of being commonly known by such. According to the Complainant, it is also clear, given the composition of the disputed domain name as a typosquatting variation of the TEVA Mark that no good faith use could be made of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

The Respondent did not file a Response. However, as set out in section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), the consensus view of UDRP panels is that the respondent's default does not automatically result in a decision in favor of the complainant. The Complainant must still establish each of the three elements required by paragraph 4(a) of the Policy. Although the Panel may draw appropriate inferences from the Respondent's default, paragraph 4 of the Policy requires the Complainant to support its assertions with actual evidence in order to succeed in this proceeding. Paragraph 14(b) of the Rules provides that, in the absence of exceptional circumstances, the panel shall draw such inferences as it considers appropriate from a failure of a party to comply with a provision or requirement of the Rules. The Panel finds that in this case there are no such exceptional circumstances.

Under the Policy, the Complainant must prove that:

- (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 respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

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 TEVA Mark and the disputed domain name ([WIPO Overview 3.0](#), section 1.7).

Based on the available record, the Panel finds 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 that the TEVA Mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the Complainant's TEVA Mark for the purposes of the Policy ([WIPO Overview 3.0](#), section 1.7).

The Panel is satisfied that the disputed domain name consists of an intentional misspelling of the Complainant's abovementioned TEVA PHARM and TEVAPHARM trademarks, which is considered by panels to be confusingly similar to the relevant mark for purposes of the first element ([WIPO Overview 3.0](#), section 1.9).

Based on the available record, 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.

Based on the available record, 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 considers that other UDRP panels have found the Complainant's TEVA Mark to have a worldwide reputation (e.g., *Teva Pharmaceutical Industries Limited v. Joseph Waweru, Joseph Waweru*, WIPO Case No. [D2022-0955](#) and *Teva Pharmaceutical Industries Ltd. v. Dale Stehlik*, WIPO Case No. [D2023-3935](#)), and the evidence in the present case supports such finding of the TEVA Mark. From the TEVA Mark's reputation, in absence of the Respondent's rebuttal, the Panel infers that the Respondent must have had the Complainant's TEVA Mark in mind when it registered the disputed domain name, which makes the registration of the disputed domain name in bad faith.

Further, panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, 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, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement) ([WIPO Overview 3.0](#), section 3.3). Having reviewed the available record, the Panel notes the reputation of the TEVA Mark, the apparent intentional misspelling of the Complainant's TEVAPHARM trademark in the disputed domain name, the Respondent's failure to reply to the Complaint, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Based on the available record, 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 <tevapham.com> be transferred to the Complainant.

/Alfred Meijboom/
Alfred Meijboom
Sole Panelist
Date: June 7, 2024