

ADMINISTRATIVE PANEL DECISION

Teva Pharmaceutical Industries Ltd v. dale Stehlik, Jam Pharmaci

Case No. D2024-3349

1. The Parties

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

The Respondent is dale Stehlik, Jam Pharmaci, United States of America.

2. The Domain Name and Registrar

The disputed domain name <teva-pharm.org> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 15, 2024. On August 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 August 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 the same day.

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 29, 2024. In accordance with the Rules, paragraph 5, the due date

for Response was September 18, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 26, 2024.

The Center appointed Reynaldo Urtiaga Escobar as the sole panelist in this matter on September 30, 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.

The proceeding is conducted in English, this being the language of the disputed domain name's registration agreement, as confirmed by the Registrar.

4. Factual Background

The Complainant, which was founded in Jerusalem in 1901, is the 18th largest pharmaceutical company in the world and one of the biggest generic drug manufacturers worldwide.

The Complainant's inventory of 3,600 drugs reaches nearly 200 million people in 60 countries and six continents. The Complainant has over 50 manufacturing facilities and approximately 37,000 employees.

The Complainant owns numerous marks around the world comprising the root term "teva", including:

Mark	Territory	Reg. No.	Registration date	Goods or services
TEVA (Word mark)	Israel	41075	July 5, 1977	[5] Pharmaceutical preparations and pharmaceutical products, chemical sanitary substances, cosmetics.
TEVA (Word mark)	United States of America	1567918	November 28, 1989	[5] Pharmaceutical, veterinary and sanitary preparations.
TEVA (Word mark)	European Union	001192830	July 18, 2000	[3] Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions; dentifrices. [5] Pharmaceutical, veterinary and sanitary preparations; dietetic substances adapted for medical use, food for babies; plasters, materials for dressings; material for stopping teeth, dental wax; disinfectants; preparations for destroying vermin; fungicides, herbicides. [10] Surgical, medical, dental and veterinary apparatus and instruments, artificial limbs, eyes and teeth; orthopedic articles; suture materials.
TEVA PHARM (Word mark)	Israel	164291	May 5, 2004	[5] Pharmaceutical and health care products.

TEVAPHARM (Word mark)	European Union	018285645	9 January, 2021	[5] Pharmaceutical preparations; medicines; dietetic substances adapted for medical use; dietetic foods adapted for medical purposes; nutritional additives for medical purposes; vitamin preparations; preparations of trace elements for human and animal use; mineral food supplements; bacterial preparations for medical use. [44] Consulting services in the field of pharmaceuticals.
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The Complainant operates the website at <tevapharm.com>, which was registered in 1996. The Complainant also operates country-specific websites for <tevausa.com>, <tevausk.com>, <tevaItalia.it>, among others.

The disputed domain name was registered on July 29, 2023. The disputed domain name is currently inactive but previously hosted a homepage displaying pay-per-click (“PPC”) links to third-party sites offering pharma-related products and services.

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:

- (i) The Complainant is the holder of numerous trademarks for TEVA, and has registrations for TEVA PHARM and TEVAPHARM covering many jurisdictions around the world;
- (ii) The Complainant has accrued substantial goodwill and recognition in the TEVA brand, which was first registered as a trademark more than 40 years ago;
- (iii) The TEVA brand has become a distinctive identifier of Complainant’s offerings;
- (iv) The disputed domain name consists of the Complainant’s marks TEVA, TEVA PHARM, and TEVAPHARM in full;
- (v) The Complainant’s TEVA, TEVA PHARM, and TEVAPHARM marks are each clearly recognizable in the disputed domain name’s string (see section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”));
- (vi) The Panel is requested to disregard from the first element’s confusing similarity test the “.org” extension, this being a standard registration requirement;
- (vii) The Complainant requests the Panel to find the disputed domain name confusingly similar to the Complainant’s TEVA, TEVA PHARM, and TEVAPHARM marks for the purposes of satisfying paragraph 4(a)(i) of the Policy;

- (viii) To the best of Complainant's knowledge, the Respondent does not have a registered or unregistered trademark for "teva-pharm" or any similar term;
- (ix) The Respondent has not been licensed by the Complainant to register domain names featuring the TEVA marks or any confusingly similar variant thereof;
- (x) The Respondent has not used nor made preparations to use the disputed domain name in connection with a bona fide offering of goods or services, and neither has the Respondent made a legitimate noncommercial fair use of the disputed domain name;
- (xi) The disputed domain name currently resolves to a site brandishing PPC links to competing third-party sites offering pharmaceutical goods and services;
- (xii) The Respondent is unfairly capitalizing on the trademark value of the TEVA brand to attract and redirect Internet users to competing offerings;
- (xiii) Before registering the disputed domain name, a basic Google search of "teva-pharm" would have made the Respondent aware of the Complainant's rights in the globally renowned TEVA mark;
- (xiv) The Internet users reading the Respondent's domain name string are misled into believing that the disputed domain name was controlled and operated by the Complainant;
- (xv) The Respondent has used the disputed domain name to display PPC links to competing sites, thus taking unfair advantage of the TEVA marks to attract and misleadingly divert Internet users attempting to reach the Complainant's website, to competing websites;
- (xvi) The disputed domain name is configured with multiple MX (mail exchange) records, which strongly suggests that the Respondent may also be using the disputed domain name to engage in email phishing and other fraudulent activities;
- (xvii) Given the disputed domain name's composition, which unequivocally points to the Complainant, there is no conceivable good faith rationale for the Respondent's configuring the disputed domain name with MX records.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, in order to succeed in this administrative proceeding, the Complainants must prove that:

- (i) the disputed domain name is identical or confusingly similar to trademarks or service marks in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

These elements are discussed in turn below. In considering these elements, paragraph 15(a) of the Rules provides that the Panel shall decide the Complaint on the bases of statements and documents submitted and in accordance with the Policy, the Rules, and any other rules or principles of law that the Panel deems applicable.

A. Identical or Confusingly Similar

It is well settled 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 3.0](#), section 1.7.

Relying on the trademark registration certificates and the WIPO Global Database report submitted with the Complaint¹, the Panel finds the Complainant has shown rights in the TEVA, TEVA PHARM, and TEVAPHARM marks as per Policy paragraph 4(a)(i).

Now, in the Panel's view, the marks TEVA, TEVA PHARM, and TEVAPHARM are readily recognizable within the disputed domain name regardless of the hyphen in between the terms "teva" and "pharm" forming the Complainant's TEVA PHARM and TEVAPHARM marks. See *Teva Pharmaceutical Industries Limited v. Joseph Waweru, Joseph Waweru*, WIPO Case No. [D2022-0955](#) (a hyphen and the letter "s" in the domain name <teva-pharms.com> are considered by the panel to be alterations which do not prevent a finding of confusing similarity as the complainant's TEVA and TEVAPHARM marks are clearly recognizable within the domain name).

Although generic Top-Level-Domains ("gTLDs") may bear on assessment of the second and third elements, the Panel finds the ".org" particle of the disputed domain name's string does not preclude a finding of confusing similarity under the Policy. [WIPO Overview 3.0](#), section 1.8.

In sum, the disputed domain name is held to be confusingly similar to the Complainant's TEVA, TEVA PHARM, and TEVAPHARM marks owned by the Complainant.

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.

¹ Under Annexes 6 and 9, respectively.

The Complainant has produced screenshots of the Respondent's website showing that on July 11, 2024, the disputed domain name resolved to a homepage showing PPC links to third-party websites under the headings "Life Science Consultants – Pharma Industry Consultants", "Preclinical CRO Pharma", "Pharmaceutical Production", "Pharmaceutical Testing", "Services for Pharmaceuticals", and "Argent Biopharma".

Insofar as the disputed domain name targets the Complainant's TEVA marks, and the PPC links divert the Internet traffic to third-party providers of products and services in the pharma industry, the Respondent cannot accrue rights or legitimate interests in the disputed domain name within the meaning of Policy paragraph 4(a)(ii). See [WIPO Overview 3.0](#), section 2.9 (panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users).

It is therefore beyond cavil that the Respondent lacks any rights or legitimate interests in the disputed domain name.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Pursuant to Policy, paragraph 4(a)(iii), in order to be granted relief, the Complainant must show that the disputed domain name was registered and is being used in bad faith.

Paragraph 4(b) of the Policy sets forth the following non-exhaustive grounds of bad faith registration and use:

"(i) circumstances indicating that you [the respondent] have registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your [the respondent's] documented out-of-pocket costs directly related to the domain name; or
(ii) you [the respondent] have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you [the respondent] have engaged in a pattern of such conduct; or
(iii) you [the respondent] have registered the domain name primarily for the purpose of disrupting the business of a competitor; or
(iv) by using the domain name, you [the respondent] have intentionally attempted to attract, for commercial gain, Internet users to your [the respondent's] website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your [the respondent's] website or location or of a product or service on your [the respondent's] website or location."

In the Policy context, bad faith is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark. See section 3.1 of the [WIPO Overview 3.0](#).

The Panel opines that, by incorporating the TEVA marks into the disputed domain name without the Complainant's consent, the Respondent has purposely registered the inherently misleading disputed domain name to create confusion among Internet users so as to reroute them to third-party websites offering competing products and services in the pharma market. This is an unfair trade practice amounting to bad faith. See *Andrey Ternovskiy dba Chatroulette v. Whois Agent, Domain Protection Services, Inc. / Marco Carta, MC*, WIPO Case No. [D2018-2678](#) (the respondent has intentionally misappropriated the complainant's trademark as a way of redirecting Internet users searching for the complainant's website. This "bait-and-switch" tactic has been held to be evidence of bad faith registration and use by other UDRP panels).

The evidence and arguments supporting the Complaint persuade the Panel to find that the disputed domain name was registered in bad faith and is being used in bad faith.

The Complainant has discharged its burden in relation to 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 <teva-pharm.org> be transferred to the Complainant.

/Reynaldo Urtiaga Escobar/

Reynaldo Urtiaga Escobar

Sole Panelist

Date: October 14, 2024