

ADMINISTRATIVE PANEL DECISION

Teva Pharmaceutical Industries Ltd. v. Brendon Lyon, premiermidtownrealtys and Webpadi Channel, zzm

Case No. D2024-3435

1. The Parties

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

The Respondents are Brendon Lyon, premiermidtownrealtys, United States of America (“USA”), and Webpadi Channel, zzm, Nigeria.

2. The Domain Name and Registrar

The disputed domain names <tevapharmaceuticals.online>, <tevapharmaceuticals.site>, and <tevapharmaceuticals.website> are 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 22, 2024. On August 22, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On August 23, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (“Domain Admin, Privacy Protect, LLC (PrivacyProtect.org)”) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 23, 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 August 28, 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 Respondents of the Complaint, and the proceedings commenced on September 4, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 24, 2024. The Respondents did not submit any response. Accordingly, the Center notified the Respondents’ default on September 25, 2024.

The Center appointed Karen Fong 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.

4. Factual Background

The Complainant was established in 1944, and is one of the world's largest generic medicines producers, leveraging a portfolio of 3,600 different products in nearly every therapeutic area. According to the Complainant's annual report, it was active in 2023 in over 60 countries and it had revenues of more than USD 15.85 billion and more than 37,000 employees internationally.

The Complainant has a large portfolio of trade marks consisting of TEVA and TEVAPHARM in many countries and territories worldwide, including:

- International Trade Mark Registration No. 1319184 for TEVA (stylised) registered on June 15, 2016;
- USA Trade Mark Registration No. 1567918 for TEVA (stylised) registered on November 28, 1989; and
- European Union Trade Mark Registration No. 018285645 for TEVAPHARM (word mark) registered on January 9, 2021 (individually and collectively, the "Trade Mark").

The Complainant's main website is found at "www.tevapharm.com".

The details of the disputed domain names are as follows:

Disputed Domain Name	Creation Date	Registrant	Comment
<tevapharmaceuticals.online>	August 7, 2024	Brendon Lyon, premiermidtownrealtys	Does not resolve to an active website
<tevapharmaceuticals.site>	August 8, 2024	Brendon Lyon, premiermidtownrealtys	Does not resolve to an active website although an email server has been configured on the disputed domain name
<tevapharmaceuticals.website>	August 8, 2024	Webpadi Channel, zzm	Does not resolve to an active website although an email server has been configured on the disputed domain name

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 names.

Notably, the Complainant contends that the disputed domain names are confusingly similar to the Trade Mark in which it has rights, that the Respondents have no rights or legitimate interests with respect to the disputed domain names, and that the disputed domain names were registered and are being used in bad faith.

B. Respondents

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

6. Discussion and Findings

A. Consolidation: Multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

As regards common control, the Panel notes the following:

- (1) The three disputed domain names include the Trade Mark and the word "pharmaceuticals" as part of them, which relates to the Complainant's field of business, evidencing the targeting of the Complainant;
- (2) The three disputed domain names are registered in two registrant names, one based in the USA and the other based in Nigeria. Two of the disputed domain names are registered to the registrant who appears to be based in the USA while the third disputed domain name is registered to the one who appears to be based in Nigeria;
- (3) The disputed domain names were registered through the same Registrar on the same day for two of them and one day apart for the remaining one. The two disputed domain names registered on the same day are in the names of the two different registrants and all three disputed domain names have the same DNS servers;
- (4) The Top-Level Domains ("TLDs") of all three disputed domain names are related to the Internet – ".online", ".site" and ".website".
- (5) It appears to be an unlikely coincidence that two disputed domain names comprising the Trade Mark with the same structure apart from the TLDs were registered on the same day with the same Registrar by someone based in the USA and another based in Nigeria unless they are related especially when none of the disputed domain name resolves to an active website.
- (6) Two of the disputed domain names (one owned by Brendon Lyon, premiermidtownrealtys and the other by Webpadi Channel, zzm) have the same IP address and they both have email servers configured on them.
- (7) The Respondents failed to file responses.

The evidence submitted points to the fact that the disputed domain names are most likely subject to common control by the Respondents. The above pattern evidences common conduct based on the registration and use of the disputed domain names, and such conduct interferes with the Trade Mark. The Respondents had the opportunity but did not respond to the Complaint. As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as "the Respondent") in a single proceeding.

B. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for identity or confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's Trade Mark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the Trade Mark is reproduced within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the Trade Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of the term "pharmaceuticals" or "aceuticals" after the Trade Mark in the disputed domain names may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain names and the Trade Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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

C. 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.

While 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 often impossible 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. 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 record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names. 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 names such as those enumerated in the Policy or otherwise.

Moreover, the nature of the disputed domain names is inherently misleading as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

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

D. 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 the disputed domain names fully incorporate the Trade Mark and the word "pharmaceuticals" which refers to the Complainant's business, indicating that the Respondent had actual knowledge of and was targeting the Complainant and the Trade Mark when registering the disputed

domain names. The Panel also notes that the disputed domain names are inactive. 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.

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 names does not prevent a finding of bad faith in the circumstances of this proceeding, particularly noting the reputation of the Complainant's Trade Mark. [WIPO Overview 3.0](#), section 3.3. Moreover, the nature of the disputed domain names, which is not only confusingly similar to the Trade Mark and is obviously targeting the Complainant, is an indication of bad faith on the part of the Respondent.

Further, based on the available record, the Panel notes that mail exchange servers have been configured on two of the disputed domain names.

Section 3.4 of [WIPO Overview 3.0](#) states as follows:

"Panels have held that the use of a domain name for purposes other than to host a website may constitute bad faith. Such purposes include sending email, phishing, identity theft, or malware distribution. (In some such cases, the respondent may host a copycat version of the complainant's website.) Many such cases involve the respondent's use of the domain name to send deceptive emails, e.g., to obtain sensitive or confidential personal information from prospective job applicants, or to solicit payment of fraudulent invoices by the complainant's actual or prospective customers."

Although there is no evidence that the Respondent has actually sent phishing or fraudulent emails so far, the presence of an email server configured to two of the inherently misleading disputed domain names constitutes an ongoing threat, and in the circumstances of this case, two of the disputed domain names could be used to perpetuate phishing schemes or other email scams in the future.

Having reviewed the available record, the Panel notes the reputation of the Trade Mark, the composition of the disputed domain names, the configuration of an email server on two of the disputed domain names, and the lack of a response from the Respondent, 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 the third element of the Policy has been established.

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 names <tevapharmaceuticals.online>, <tevapharmaceuticals.site>, and <tevapharmaceuticals.website> be transferred to the Complainant.

/Karen Fong/

Karen Fong

Sole Panelist

Date: October 9, 2024