

ADMINISTRATIVE PANEL DECISION

Actavis Group PTC ehf, Actavis Holdco U.S., Inc., Teva Pharmaceuticals International GmbH, Ratiopharm GmbH v. Jessie Larson
Case No. DME2023-0014

1. The Parties

The Complainants are Actavis Group PTC ehf, Iceland, Actavis Holdco U.S., United States of America Inc. (the “United States”), Teva Pharmaceuticals International GmbH, Switzerland, and Ratiopharm GmbH, Germany, represented by SILKA AB, Sweden.

The Respondent is Jessie Larson, United States.

2. The Domain Name and Registrar

The disputed domain names <actavis.me>, <ajovy.me>, and <ratiopharm.me> are registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 24, 2023. On October 24, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 25, 2023, 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 and Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainants on November 1, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amendment to the Complaint on November 1, 2023.

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 November 9, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 29, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 1, 2023.

The Center appointed Taras Kyslyy as the sole panelist in this matter on December 19, 2023. 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 Complainants are subsidiaries of Teva Pharmaceutical Industries Ltd, a pharmaceutical company. Since its establishment in 1901, Teva Pharmaceutical Industries Ltd now maintains a portfolio of approximately 3,600 products, and its medicines reach nearly 200 million people across 60 countries and six continents. Teva Pharmaceutical Industries Ltd has over 53 manufacturing facilities in more than 33 countries, and some 37,000 employees.

The Complainant Actavis Group PTC ehf is the holder of many trademarks for ACTAVIS that cover jurisdictions other than the United States, including for instance European Union trademark registration No. 3615721 registered on January 16, 2006.

The Complainant Actavis Holdco U.S., Inc. is the holder of a United States trademark for the term ACTAVIS, namely the United States trademark registration No. 5586410, registered on October 16, 2018.

The Complainant Teva Pharmaceuticals International GmbH is the holder of trademarks for AJOVY, including for instance the United States trademark registration No. 5633449, registered on December 18, 2018. This trademark is used for a prescription medication to prevent migraines in adults.

The Complainant Ratiopharm GmbH is the holder of the RATIOPHARM brand, including for instance international trademark registration No. 508764, registered on December 17, 1986.

The Complainants use websites including “www.actavis.co.id”, “www.ajovy.com” and “www.ratiopharm.de” to advertise their goods/services to Internet users.

The disputed domain names were registered August 30, 2023 and each of the disputed domain names redirect users to pages on the domain name reselling platform, “Dan.com”, which advertise their sale for USD 1,450 each.

5. Parties’ Contentions

A. Complainants

The Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

Notably, the Complainants contend that the respective disputed domain names are identical to respective trademarks of the Complainants. The disputed domain names consist of the Complainants’ trademarks in full, without alteration or addition, and are therefore identical to the Complainants’ trademarks. The Complainants request that the Panel disregards the “.me” ccTLD extension appended to each of the disputed domain names, since this forms a standard registration requirement and as such is disregarded.

The Complainants also contend that the Respondent has no rights or legitimate interests in respect of the disputed domain names. The Respondent has not registered any trademarks, nor does the Respondent have unregistered trademark rights, for “actavis”, “ajovy” or “ratiopharm”. The Respondent has not been licensed by the Complainants to register domain names featuring the Complainants’ trademarks, nor any confusingly similar variant thereof. The Respondent has not used, nor prepared to use, the disputed domain names in connection with a *bona fide* offering of goods or services. Each of the disputed domain names

redirect users to pages on the domain name reselling platform, “Dan.com”, which advertise their sale for USD 1,450. The disputed domain names, by each reproducing the Complainants’ trademarks exactly, carry a high risk of implied affiliation. The disputed domain names, by their nature, impersonate or suggest endorsement by the Complainants, and cannot constitute fair use. The Respondent is not known, nor has ever been known, by the Complainants’ trademarks, nor anything similar.

Finally, the Complainants contend that the disputed domain names were registered and are being used in bad faith.

The Complainants’ trademarks each long precede the Respondent’s 2023 registration of the disputed domain names. The Complainants’ trademarks cover numerous jurisdictions, its corresponding goods and services reaching millions of consumers across the world each day. The Complainants highlight the inherent distinctiveness of their trademarks, and note that these trademarks are readily identifiable on publicly accessible trademark databases. Additionally, the top Google search results for “actavis”, “ajovy”, and “ratiopharm” present results which clearly pertain to the Complainants’ offerings for each of these brands. It is therefore evident that, notwithstanding any other considerations, the simplest degree of due diligence would have otherwise made a registrant of the disputed domain names aware of the Complainants’ established rights in the trademarks. The Respondent’s decision to register three disputed domain names within the space of less than an hour, each composed of distinctive and associated brands is indicative of the Respondent’s prior knowledge of the pharmaceutical industry and intent to capitalize on such. The Respondent has used each of the disputed domain names to advertise their sale for an amount which is unequivocally in excess of any directly related registration/maintenance costs in connection with the disputed domain names. The Respondent has intended to, through its registration of the disputed domain names, commercially capitalize on the value of the Complainants’ trademarks by reselling them for excessive value.

B. Respondent

The Respondent did not reply to the Complainants’ contentions.

6. Discussion and Findings

A. Consolidation of Complainants

Section 4.11.1 of the [WIPO Overview 3.0](#) summarizes the consensus view of UDRP panels on the consolidation of multiple complainants, in part, as follows:

“In assessing whether a complaint filed by multiple complainants may be brought against a single respondent, panels look at whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation.”

The Complainants assert they are related corporate entities and have a common legal interest sufficient to justify consolidation. The Respondent has engaged in the same form of targeting conduct with respect to each of the disputed domain names.

The Panel accepts these arguments in favor of consolidation and grants the request to consolidate.

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 confusing similarity involves a reasoned but relatively straightforward comparison between the Complainants’ trademarks and the disputed domain names. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ([“WIPO Overview 3.0”](#)), section 1.7.

Based on the available record, the Panel finds the Complainants have shown rights in respect of their trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the mark ACTAVIS is reproduced within the disputed domain name <actavis.me>. Accordingly, the disputed domain name <actavis.me> is identical to the mark ACTAVIS for the purposes of the Policy. The Panel finds the entirety of the mark AJOVY is reproduced within the disputed domain name <ajovy.me>. Accordingly, the disputed domain name <ajovy.me> is identical to the mark AJOVY for the purposes of the Policy. The Panel finds the entirety of the mark RATIOPHARM is reproduced within the disputed domain name <ratiopharm.me>. Accordingly, the disputed domain name <ratiopharm.me> is identical to the mark RATIOPHARM for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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.

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 Complainants have established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names. The Respondent has not rebutted the Complainants’ *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.

The available evidence does not confirm that the Respondent is commonly known by the disputed domain names, which could demonstrate its rights or legitimate interests (see, e.g., *World Natural Bodybuilding Federation, Inc. v. Daniel Jones, TheDotCafe*, WIPO Case No. [D2008-0642](#)).

The Complainants did not license or otherwise agree for use of its prior registered trademarks by the Respondent, thus no actual or contemplated *bona fide* or legitimate use of the disputed domain names could be reasonably claimed (see, e.g., *Sportswear Company S.P.A. v. Tang Hong*, WIPO Case No. [D2014-1875](#)).

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 Respondent registered all of the disputed domain names related to the different trademarks owned by the Complainants known in pharmaceutical industry and pertaining to the group of companies with common parent entity. The Panel finds this confirms the

Respondent knew and targeted the Complainants and its trademarks when registering the disputed domain names, which is bad faith. [WIPO Overview 3.0](#), section 3.2.2.

The Panel finds that the disputed domain names were primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name for valuable consideration likely in excess of the Respondent's documented out-of-pocket costs directly related to the disputed domain name, which is bad faith. [WIPO Overview 3.0](#), section 3.1.

Based on the available record, the Panel finds that the Complainants have established the third element of the Policy.

E. Remedies

The Complainants request transfer of the disputed domain names. The transfer is requested to Teva Pharmaceutical Industries Ltd, the entity that manages the Complainants' domain names. The Panel however notes that Teva Pharmaceutical Industries Ltd is not a complainant in the present case, while transfer of a disputed domain name is available only to the Complainants in the current proceedings. Policy, paragraph 4(i).

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 <actavis.me>, <ajovy.me>, and <ratiopharm.me> be transferred to the Complainants.

/Taras Kyslyy/

Taras Kyslyy

Sole Panelist

Date: January 2, 2024