

ADMINISTRATIVE PANEL DECISION

Teva Pharmaceutical Industries Ltd. v. Romman Alham, Bittra
Case No. D2023-5240

1. The Parties

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

The Respondent is Romman Alham, Bittra, Sweden

2. The Domain Name and Registrar

The disputed domain name <tevapharmgpt.com> 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 December 15, 2023. On December 18, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 18, 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 (Registration Private) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 19, 2023, 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 December 20, 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 December 27, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 16, 2024. The Respondent sent an email communication to the Center on December 19, 2023, informing the Center that it was willing to consider a friendly settlement of the matter upon receiving from the Complainant a fair and reasonable offer for the disputed domain name. On December 21, 2023, the Complainant declined the settlement proposal and asked the Center to proceed further with the UDRP proceeding. On February 5, 2024, the Respondent sent another email to the Center asking how to further proceed in view of the Complainant’s refusal.

The Center appointed Angelica Lodigiani as the sole panelist in this matter on January 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 1935 and is a global pharmaceutical company and one of the world's largest generic medicine producers leveraging a portfolio of 3,600 different products in almost every therapeutic area. The Complainant produces 76 billion tablets and capsules at 53 manufacturing facilities worldwide. In 2022, the Complainant was active in over 60 countries, generated revenues of more than USD 14.9 billion and employed more than 37,000 people internationally.

The Complainant is the owner of a large portfolio of trademarks consisting of the term TEVA and TEVAPHARM such as, inter alia:

- TEVA (figurative), European Union registration No. 000115394, registered on April 29, 1998, for goods in class 5;

- TEVAPHARM (word), European Union registration No. 018285645, registered on January 9, 2021, for goods and services in classes 5 and 44.

Moreover, the Complainant is the owner of the domain name <tevapharm.com>, registered on June 14, 1996, which is used to host a website displaying information about the Complainant's group and its activities.

The disputed domain name was registered on April 25, 2023 and resolves to a parked page of the Registrar containing sponsored pay-per click ("PPC") links to websites related to the Complainant's business and to one of the Complainant's competitors. Moreover, this parked page contains the following statement "Get This Domain".

On December 19, 2023, the Respondent sent an email, to both the Center and the Complainant, stating as follows: "After careful consideration, I am interested in exploring the possibility of a resolution that would involve transferring the domain to the concerned party. I believe that a fair and reasonable offer could expedite this process and bring about a conclusion for all parties involved. I am open to discussing the terms and conditions of such a transfer and would appreciate it if you could provide me with a reasonable offer for the domain. I look forward to initiating discussions and finding a mutually agreeable solution". On December 20, 2023, the Center informed the Parties that the UDRP proceeding could be suspended to implement a settlement agreement. If the Parties wished to explore settlement options, the Complainant should submit a request for suspension by December 28, 2023. On December 21, 2023, the Complainant informed the Center and the Respondent that it wished to proceed with the case. On February 5, 2024, the Respondent sent another email to the Center stating as follows: "Thanks for the call regarding TevaPharmGPT.com, I'm following up with you in this email as requested. As I have already informed that I am willing to register the domain name to you, and you declined - I am not sure about what you are trying to accomplish and what this is about anymore? Kindly advise".

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 marks TEVA and TEVAPHARM as it incorporates them entirely. Moreover, the addition of the term "gpt", which is the acronym of "Generative Pre-training Transformer" does not prevent a finding of confusing similarity of the disputed domain name with the Complainant's mark.

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name as the Respondent is not a licensee of the Complainant and the Complainant never authorized the Respondent to use its TEVA and TEVAPHARM marks in association with the registration of the disputed domain name. Moreover, the Respondent does not appear to be commonly known by the disputed domain name and does not own any trademark right corresponding to the disputed domain name. The disputed domain name incorporates the Complainant's marks, which entails that there is a high risk of implied false affiliation with the Complainant and its activities. The disputed domain name resolves to a parked page with PPC links related to the same area of activity of the Complainant and to one of the Complainant's main competitors. This use does not amount to a bona fide offering of goods or services, or to a legitimate noncommercial or fair use of the disputed domain name. On the contrary, the Complainant cannot conceive any possible situation in which the use of the disputed domain name would not infringe its rights in TEVA and TEVAPHARM marks.

Lastly, the Complainant maintains that the Respondent registered and used the disputed domain name in bad faith. The Complainant's TEVA and TEVAPHARM trademarks are well known and the Respondent registered them within the disputed domain name without the Complainant's authorization. Only someone who was familiar with the TEVA and TEVAPHARM trademarks of the Complainant would have registered the disputed domain name. Moreover, the mere registration of a domain name that is identical or confusingly similar to a famous trademark, as it is the case here with the TEVA and TEVAPHARM marks, by an unaffiliated entity can by itself create a presumption of bad faith.

The disputed domain name resolves to a PPC parked page with links related to the pharmaceutical industry, area in which the Complainant operates and is well known, and one of these links refers to a Complainant's competitor. According to the Complainant, there is no plausible good faith use of the disputed domain name by the Respondent. On the contrary, the Respondent intentionally attempted to attract, for commercial gain, Internet users to its own website by creating a likelihood of confusion with the Complainant's marks as to the source, sponsorship, affiliation or endorsement of this website.

B. Respondent

The Respondent did not reply to the Complainant's contentions but offered to settle the matter amicably upon receiving from the Complainant a reasonable offer for the disputed domain name.

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. In particular, the Complainant is the owner of the registered trademarks TEVA and TEVAPHARM.

The Panel finds that the marks are recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here, “gpt”, may bear on assessment of the second and third elements, the Panel finds that the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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.

The Panel finds that the Respondent has no relationship with the Complainant and that the Complainant did not authorize the Respondent to register a domain name incorporating its TEVA and TEVAPHARM marks. Moreover, the Respondent does not appear to be commonly known by the disputed domain name. The Respondent is using the disputed domain name to access a parked page containing PPC links related to the Complainant’s activities; one of these links refers to a Complainant’s competitor. The Respondent is probably deriving an income from each click on the sponsored links. The use of a domain name in connection with PPC links does not represent a bona fide offering, where such links capitalize on the reputation and goodwill of the Complainant’s mark or otherwise mislead Internet users, [WIPO Overview 3.0](#), section 2.9. In the current case, the Panel notes that the Complainant has been operating for many years prior to the registration of the disputed domain name and is an important pharmaceutical company operating in over 60 countries worldwide and having a total number of employees exceeding 37,000. The Complainant’s global sales in 2022 were equal to USD 14.9 billion. All these elements lead to the conclusion that the TEVA and TEVAPHARM marks enjoy reputation in the pharmaceutical field. Moreover, the Panel notes that in 1996, the Complainant registered the disputed domain name <tevapharm.com>. This domain name is closely similar to the disputed domain name but for the addition of the acronym “gpt”, which stands for “Generative Pre-training Transformer”, an acronym commonly understood nowadays, considering the current popularity of the AI chat box named “Chat GPT”, and the slightly different domain name extension. All these circumstances lead to the conclusion that the links appearing on the Respondent’s webpage capitalize on the reputation and goodwill of the Complainant’s marks and can mislead the Internet users looking for the Complainant, inducing them to believe that the disputed domain name belongs to the Complainant, rather than to a third party. Even if the Respondent did not derive any commercial gain from the PPC website, the Panel notes that such use to show links related to the Complainant and its competitor would not give rise to rights or legitimate interests.

In light of the foregoing, 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 the Complainant's trademarks are clearly recognizable within the disputed domain name. Previous UDRP Panels have already found that the Complainant's mark TEVA enjoys reputation (see, among others, *TEVA Pharmaceutical Industries Limited v. James Andrew*, WIPO Case No. [D2022-3405](#) and *Pharmaceutical Industries Ltd v. Jose Miranda*, WIPO Case No. [D2023-0420](#)) and this Panel is inclined to agree with the reputation of the TEVA mark, given its longstanding and widespread use, and the Complainant's turnover). Moreover, the disputed domain name is practically identical to the Complainant's marks TEVAPHARM and domain name <tevapharm.com>, which the Complainant registered many decades ago, in 1996, and which is used to advertise the Complainant's activity. Accordingly, the Panel notes that the registration of the disputed domain name did not occur by mere coincidence, but because the Respondent had clearly in mind the Complainant and its trademarks TEVA and TEVAPHARM. The registration of a domain name incorporating a third party's well-known trademark, being aware of this trademark and without rights or legitimate interests, is a registration in bad faith.

The disputed domain name resolves to a parked page containing PPC links to third party's websites, including a website of one of the Complainant's competitors, offering services related to the Complainant's activity. The Respondent is probably deriving an income from each click on these links. Such use amounts to use in bad faith as it capitalizes on the Complainant's marks to attempt to attract, for commercial gain, Internet users to the Respondent's website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website. Even if there were no direct commercial gains for the Respondent from the PPC links, the Panel would still consider that noting the composition of the disputed domain name, the Respondent likely registered it, and holds it, due to its value in connection with the Complainant's marks.

Moreover, the Panel notes that the Respondent's parked page contains the statement: "Get This Domain", thus inviting Internet users to make economic proposals for the purchase of the disputed domain name. Therefore, given the composition of the disputed domain name, the Respondent is likely attempting to take unfair economic advantage of the reputation of the Complainant's mark also through the possible sale of the disputed domain name.

In light of the foregoing, 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 <tevapharmgpt.com> be transferred to the Complainant.

/Angelica Lodigiani/

Angelica Lodigiani

Sole Panelist

Date: February 13, 2024.