

ADMINISTRATIVE PANEL DECISION

Teva Pharmaceutical Industries Ltd v. daniel eltse
Case No. D2024-0191

1. The Parties

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

The Respondent is daniel eltse, Canada.

2. The Domain Name and Registrar

The disputed domain name <tevabioengineering.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 January 17, 2024. On January 17, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 17, 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 January 18, 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 January 19, 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 January 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 12, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 13, 2024.

The Center appointed Erica Aoki as the sole panelist in this matter on February 19, 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 an internationally active and widely known pharmaceutical company. Since its establishment in 1901, the Complainant currently maintains a portfolio of approximately 3,600 products, and its medicines reach nearly 200 million people across 60 countries and six continents every day. The Complainant has over 53 manufacturing facilities in more than 33 countries, and some 37,000 employees.

The Complainant is the holder of numerous trademarks for TEVA, covering many jurisdictions around the world such as the following:

Trademark	Origin	Registration Number	Registration Date	Class(es) Covered
TEVA	Israel	41075	July 5, 1977	5
TEVA	United States	1567918	November 28, 1989	5
TEVA	European Union	1192830	July 18, 2000	3, 5, 10
	International	1319184	June 15, 2016	5, 10, 42
	European Union	15135908	July 28, 2016	1, 3, 5, 9, 10, 16, 35, 42, 44
	United States	5984626	February 11, 2020	36
TEVA	Mexico	403326	January 10, 1992	5

The Complainant is the holder of many domain names which encompass the TEVA trademark, tailored for different jurisdictions around the world. For example, the Complainant uses <tevausa.com> for its United States of America site, <teva.uk.com> for the United Kingdom, and <teva.italy.it> for Italy.

The disputed domain name was registered on December 19, 2023, and resolved to a site displaying pay-per-click (“PPC”) links to third party sites and services under categories including “Womens Slippers”, “Compensation Analysis Tools” and “Bioengineering”. Some of the links associated with these categories (e.g., under “Womens Slippers” and “Compensation Analysis Tools”) are clearly unrelated to the Complainant, while others (e.g., under “Bioengineering”) directed Internet users to sites which operate in the same or similar industry to the Complainant. The disputed domain name currently resolves to an inactive website.

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 Complainant has accrued substantial goodwill and recognition in the TEVA trademark, which was first registered as a trademark more than 40 years ago. The Complainant’s goods and services reach some 200 million consumers each day across 60 countries and six continents. The Complainant highlights that the TEVA trademark is readily identifiable in publicly accessible trademark databases and that it holds many trademark registrations for the TEVA term, which cover numerous jurisdictions. The Complainant also refers to the goodwill and recognition that it has attained under the TEVA trademark, which has become a distinctive identifier of its goods and service.

Additionally, when Internet users search for “teva bio engineering” on Google, the search engine assumes the Internet user intends to reach the Complainant’s offerings and presents results pertaining to such.

The Complainant contends that it is therefore evident that, notwithstanding any other considerations, the simplest degree of due diligence would have made a registrant of the disputed domain name aware of the Complainant's rights in the globally renowned TEVA trademark.

The Complainant contends that the disputed domain name is confusingly similar to its trademarks since it consists of the Complainant's TEVA trademark in its entirety, only preceded by the term "bioengineering". The TEVA trademark remains prominent and clearly recognizable in the disputed domain name's string, and the addition of another term, whether descriptive or otherwise, does not prevent a finding of confusing similarity.

The Complainant contends that the Respondent is using the disputed domain name to attract and misleadingly divert Internet users, for commercial gain, who are seeking and expecting to reach a site controlled, endorsed or otherwise authorized by the Complainant. The resolving PPC site, which capitalizes on the trademark value of the Complainant's TEVA brand, features links to both unrelated and competitive third-party offerings.

The Complainant lastly submits that the Respondent has configured the disputed domain name with multiple Mail exchange ("MX records"), and this conduct is indicative of the Respondent's intention to capitalize on the Complainant by engaging in email phishing or other fraudulent activities.

B. Respondent

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

6. Discussion and Findings

The Complainant is required to establish the requirements specified under paragraph 4(a) of the Policy:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in respect of which the Complainant has rights; and
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that 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 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.

The disputed domain name only differs from the Complainant's TEVA trademark with the addition of the term "bioengineering". The TEVA trademark remains prominent and clearly recognizable in the disputed domain and is therefore confusingly similar to the Complainant's trademark. Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.7 and 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 disputed domain name resolved to a parked site displaying PPC links to third-party sites and services under categories including “Womens Slippers”, “Compensation Analysis Tools” and “Bioengineering”. Some of the links associated with these categories (e.g., under “Womens Slippers” and “Compensation Analysis Tools”) are clearly unrelated to the Complainant, while others (e.g., under “Bioengineering”) directed Internet users to sites which operate in the same or similar industry to the Complainant.

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 trademark or otherwise mislead Internet users. [WIPO Overview 3.0](#), section 2.9.

Furthermore, the Complainant submits that the composition of the disputed domain name, consisting of the Complainant’s TEVA trademark in conjunction with the term “bioengineering” relevant to the Complainant, carries a risk of implied affiliation and cannot constitute fair use.

There is no evidence on record that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the Complainant’s trademark.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Complainant’s TEVA trademarks are long-established and well-known, as outlined. The Complainant asserts that it is inconceivable that the Respondent did not have the Complainant firmly in mind when it registered the disputed domain name.

The Respondent has registered the disputed domain name to make a connection with the Complainant through the disputed domain name. The disputed domain name has been chosen to deliberately incorporate the entirety of the Complainant’s TEVA trademark.

The disputed domain name resolved to a parked site displaying PPC links to third-party sites and services including links unrelated to the Complainant, while others directed Internet users to competitor sites. The Complainant contends that the Respondent is unfairly capitalizing on the trademark value of the Complainant’s TEVA trademark to attract and redirect Internet users to competing or unrelated offerings.

Therefore, the Respondent has registered and used the disputed domain names in bad faith pursuant paragraph 4(b)(iv) of the Policy.

In addition, the current non-use of the disputed domain name does not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3.

The Respondent has chosen the disputed domain name to trade off the reputation and goodwill associated with the Complainant's TEVA trademark and to cause confusion amongst Internet users and third parties in order to perpetuate a potential financial fraud/phishing scam. Indeed, the Complainant provided evidence of the activation of MX records which is an indication of possible phishing and further supports a finding of bad faith. [WIPO Overview 3.0](#), section 3.4.

Having reviewed the record, the Panel finds that the Respondent registered and used the disputed domain name in bad faith.

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 <tevabioengineering.com> be transferred to the Complainant.

/Erica Aoki/

Erica Aoki

Sole Panelist

Date: March 4, 2024