

ADMINISTRATIVE PANEL DECISION

TEVA Pharmaceutical Industries Limited v. Name Redacted Case No. D2022-3791

1. The Parties

Complainant is TEVA Pharmaceutical Industries Limited, Israel, represented by SILKA AB, Sweden.

Respondent is Name Redacted.¹

2. The Domain Name and Registrar

The disputed domain name <tevapharmamumbai.com> is registered with Google LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 11, 2022. On October 11, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 11, 2022, 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 (Contact Privacy Inc. Customer 7151571251, Canada) and contact information in the Complaint. The Center sent an email communication to Complainant on October 12, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on October 14, 2022.

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”).

¹ Respondent appears to have used the name of Complainant when registering the disputed domain name. In light of the apparent identity theft, the Panel has redacted Respondent’s name from this Decision. However, the Panel has attached as Annex 1 to this Decision an instruction to the Registrar regarding transfer of the disputed domain name which includes the name of Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this Decision shall not be published due to the exceptional circumstances of this case. See *ASOS plc. v. Name Redacted*, WIPO Case No. [D2017-1520](#); *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified Respondent of the Complaint, and the proceedings commenced on October 18, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 7, 2022. Respondent did not submit any response. Accordingly, the Center notified the Parties of Respondent's default on November 8, 2022.

The Center appointed Ingrīda Kariņa-Bērziņa as the sole panelist in this matter on November 10, 2022. 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

Complainant is one of the world's largest producers of generic medicines. It is the proprietor of numerous registrations for its TEVA trademark, including the following:

- Israeli Trademark Registration No. 41075 for TEVA (word mark), registered on July 5, 1977 for goods in class 5;
- Indian Trademark No. 572847 for TEVA (word mark), registered on May 11, 1992 for goods in class 5;
- French Trademark No. 3256982 for TEVA PHARMA (word mark), registered on April 23, 2004 for goods in class 5.

Complainant operates its primary business website at the domain name <tevapharm.com,> and has registered a significant number of domain names including <tevapharma.com>. For the Indian region, its official website is at the domain name <tevapharm.in>.

The disputed domain name was registered on September 4, 2022. It does not resolve to an active website. The record contains evidence that Mail eXchange (MX) records have been configured for the disputed domain name.

5. Parties' Contentions

A. Complainant

Complainant's contentions may be summarized as follows:

Under the first element, Complainant states that its corporate origins date to 1901. Today, it operates in 60 countries worldwide and is among the top pharmaceutical companies in the world, and the world's largest generic medicines producer. It has operated in India for over 20 years through various legal entities, several of them registered in the city of Mumbai. The TEVA mark has been continuously and extensively used since 1975. It is distinctive, widely recognized and is a well-known mark. The disputed domain name incorporates Complainant's mark in its entirety and is confusingly similar to Complainant's domain names at <tevapharm.com> and <tevapharma.com>.

Under the second element, Complainant states that it has built up significant goodwill and reputation in its TEVA mark. The disputed domain name gives the impression of association with Complainant which is not based in fact. Complainant has not authorized Respondent or any third party to register or make use of the disputed domain name. There is evidence that MX records are active for the disputed domain name, which is being or intended to be used for phishing or other fraudulent purposes through the use of email addresses ending with "@tevapharmamumbai.com". Respondent is not known by the disputed domain name and there is no legitimate noncommercial or fair use being made thereof.

Under the third element, Complainant states that its TEVA mark is a distinctive term in relation to pharmaceuticals and it has been put to use by Complainant exclusively internationally. Complainant has a significant presence in Mumbai, India. The disputed domain name comprises Complainant's TEVA mark together with Mumbai, the name of a city where Complainant is active. This indicates Respondent's actual knowledge of Complainant and its mark. The disputed domain name is being passively held in bad faith. The active MX records are evidence that deceptive email messages originating from addresses using "@tevapharmamumbai.com" will be sent. The registration of the disputed domain name under these circumstances represents opportunistic bad faith. Respondent has impersonated Complainant by falsely providing Complainant's name in the registration details.

Complainant requests transfer of the disputed domain name.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 4(a) of the UDRP requires Complainant to make out all three of the following:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and

(ii) Respondent has no rights or legitimate interests in respect of the disputed domain name; and

(iii) Respondent has registered and is using the disputed domain name in bad faith.

Under paragraph 15(a) of the Rules, "[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable."

A. Identical or Confusingly Similar

Complainant has provided evidence establishing that it has trademark rights in the TEVA and TEVA PHARMA marks through registrations in Israel, India and France. Complainant thereby satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.2.1.

In comparing Complainant's marks with the disputed domain name, the Panel finds that the disputed domain name is confusingly similar to Complainant's marks. The disputed domain name reflects Complainant's TEVA and TEVA PHARMA marks in their entirety, followed by the geographical term "mumbai." It is the consensus view of UDRP panels that, where a domain name incorporates the entirety of a trademark, the domain name will normally be considered confusingly similar to that mark. Moreover, 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. See [WIPO Overview 3.0](#), sections 1.7 and 1.8.

It is the well-established view of UDRP panels that the generic Top-Level Domain ("gTLD") ".com" is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test (see [WIPO Overview 3.0](#), section 1.11.1, and cases cited thereunder).

Accordingly, the Panel finds that Complainant has established the first element under paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, a respondent may establish rights to or legitimate interests in a domain name by demonstrating any of the following:

- (i) before any notice to it of the dispute, respondent's use of, or demonstrable preparations to use the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) respondent has been commonly known by the domain name, even if it has acquired no trademark or service mark rights; or
- (iii) respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel finds that the fact that Respondent from India used part of Complainant's name for the registration of the disputed domain name does not mean that Respondent is commonly known by the disputed domain name nor is using the TEVA or TEVA PHARMA mark with the permission of Complainant. The nature of the disputed domain name, which reflects Complainant's marks in their entirety together with a geographical term, cannot constitute fair use since it effectively impersonates or suggests sponsorship or endorsement by Complainant. See, for example, *Ifscience Limited v. Domains By Proxy LLC / Dr Chauncey Siemens*, WIPO Case No. [D2016-0909](#); *B&B Hotels v. WhoisGuard Protected, WhoisGuard, Inc. / Soro Wonna*, WIPO Case No. [D2020-2837](#). See also [WIPO Overview 3.0](#), section 2.5.1.

The Panel therefore finds that the evidence submitted by Complainant establishes a *prima facie* case that Respondent has no rights or legitimate interests in the disputed domain name.

Pursuant to [WIPO Overview 3.0](#), section 2.1, and cases cited thereunder, where Complainant makes out a *prima facie* case that Respondent lacks rights or legitimate interests, the burden of production on this element shifts to Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

Respondent, in failing to file a response, has not submitted any evidence or arguments demonstrating such rights or legitimate interests, nor has it rebutted any of Complainant's contentions. The disputed domain name does not resolve to an active website. There is no evidence that the disputed domain name has been registered and is being used for legitimate noncommercial or fair use purposes. See [WIPO Overview 3.0](#), section 2.1, and cases cited thereunder.

Accordingly, the Panel finds that Complainant has established the second element under paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

Pursuant to paragraph 4(b) of the Policy, the Panel finds that Complainant has demonstrated Respondent's bad faith registration and use of the disputed domain name. Complainant's rights in its TEVA mark predate the registration of the disputed domain name by more than 40 years; its rights in TEVA PHARMA predate the disputed domain name by more than 15 years. The disputed domain name reflects Complainant's TEVA and TEVA PHARMA marks together with the word "mumbai." The disputed domain name is therefore nearly identical to Complainant's TEVA PHARMA mark. The Panel finds that, by registering such a domain name, Respondent has attempted to create an association with Complainant's distinctive and well-established marks.

The Panel further finds that Complainant has, on balance, demonstrated Respondent's bad faith by passive holding of the disputed domain name. Such a finding is consistent with previous UDRP decisions, such as *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#). See also [WIPO](#)

[Overview 3.0](#), section 3.3. In particular, the disputed domain name reflects Complainant's registered TEVA and TEVA PHARMA marks. Respondent failed to provide any evidence of a connection to a legitimate business related to Complainant's marks, and, in using Complainant's name when registering the disputed domain name, has engaged in identity theft. Respondent has failed to provide any evidence of actual or contemplated good-faith use of the disputed domain name. Under the circumstances, the Panel does not find any such use plausible.

The Panel finds that Respondent's registration of MX records in respect of the disputed domain are further circumstances demonstrating bad faith registration and use of the disputed domain name. See, for example, *Fox Media LLC v. Domain Admin, Privacy Protect, LLC (PrivacyProtect.org) / AIDA GONZALEZPEREZ GONZALEZPEREZ*, WIPO Case No. [D2022-0120](#); *Equinor ASA v. Joe Bright Nyarko, Apt Support Ventures*, WIPO Case No. [D2021-4131](#).

The Panel therefore finds that Complainant has established the third element under paragraph 4(a) 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 <tevapharmamumbai.com> be transferred to Complainant.

/Ingrīda Kariņa-Bērziņa/

Ingrīda Kariņa-Bērziņa

Sole Panelist

Date: November 24, 2022