

ADMINISTRATIVE PANEL DECISION

Teva Pharmaceutical Industries Limited v. Rbsina Kbina
Case No. D2023-1243

1. The Parties

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

The Respondent is Rbsina Kbina, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <tevapharmsinc.com> is registered with NameSilo, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on March 22, 2023. On March 22, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 22, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 March 24, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 13, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 14, 2023.

The Center appointed Steven A. Maier as the sole panelist in this matter on April 21, 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 Complainant is a pharmaceutical company established in Israel.

The Complainant is the proprietor of various trademark registrations comprising or including the name TEVA, which include, for example, the following:

- United States of America trademark registration number 1567918 for the word mark TEVA, registered on November 28, 1989 in International Class 5; and
- European Union Trade Mark registration number 018285645 for the word mark TEVAPHARM, registered on January 9, 2021 in International Classes 5 and 44.

The Complainant operates an authorized website at “www.tevapharm.com”, having registered that domain name in 1996.

The disputed domain name was registered on March 15, 2023.

The Complainant provides evidence that the disputed domain name redirected to the Complainant’s own website at “www.tevapharma.com” until such time as it was suspended by the host at the Complainant’s request. At the date of this Decision, the disputed domain name redirects to what is presumably the relevant host’s website at “www.blog.rabhost.com”.

5. Parties’ Contentions

A. Complainant

The Complainant states that it is a leading pharmaceutical company, delivering high quality products that are used by millions of customers every day. It claims particular expertise in the treatment of disorders of the central nervous system. It submits that it produced approximately 120 billion tablets and capsules in 2017, which were manufactured in dozens of facilities worldwide, and that it is active in over 60 countries and employs over 45,000 individuals throughout the world.

The Complainant submits that the disputed domain name is confusingly similar to its trademarks TEVA and TEVAPHARM. It contends that, in the latter case, the disputed domain name incorporates the whole of the relevant trademark, together with the letter “s” and the term “inc”, which is liable to be interpreted as a reference to the Complainant’s corporate status. The Complainant submits that its trademarks are clearly recognizable within the disputed domain name.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It states that it has not authorized the Respondent to use its TEVA or TEVAPHARM trademarks and that the Respondent is making neither *bona fide* commercial use nor legitimate noncommercial or fair use of the disputed domain name. The Complainant contends that, on the contrary, the Respondent’s registration and use of the disputed domain name amounts to “cybersquatting” on its part, which intended to take unfair advantage of the Complainant’s reputation and goodwill in its trademarks.

The Complainant submits that the disputed domain name was registered and is being used in bad faith. It contends that the disputed domain name could have only been registered with the Complainant’s trademarks in mind, and that its original redirection to the Complainant’s website is proof of that intended association. It submits that the Respondent’s use of the disputed domain name to redirect to the Complainant’s own website must automatically give the impression of a legitimate connection between the disputed domain name and the Complainant and, further, that having established that connection in the minds of the public, the Respondent is liable subsequently to redirect the disputed domain name to other competing websites.

The Complainant adds that the Respondent has configured MX records upon the disputed domain name, meaning that it can send emails from addresses “[...]@tevapharmsinc.com”. The Complainant submits that this factor further increases the threat of consumer confusion related to the disputed domain name.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are that:

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

A. Identical or Confusingly Similar

The Panel finds, on the basis of the evidence submitted by the Complainant, that its registered trademarks TEVA and TEVAPHARM have gained wide public recognition throughout the world in connection with the Complainant’s pharmaceutical products. The disputed domain name fully incorporates the Complainant’s marks TEVA and TEVAPHARMA, in the latter case with the addition of the letter “s” and term “inc”, which do not prevent either of the trademarks from being recognizable within the disputed domain name. The Panel therefore finds that the disputed domain name is confusingly similar to trademarks in which the Complainant has rights.

B. Rights or Legitimate Interests

In the view of the Panel, the Complainant’s submissions set out above give rise to a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. However, the Respondent has failed to file a Response in this proceeding and has not submitted any explanation for its registration and use of the disputed domain name, or evidence of rights or legitimate interests on its part in the disputed domain name, whether in the circumstances contemplated by paragraph 4(c) of the Policy or otherwise. For the reasons advanced by the Complainant and further considered below, the Panel finds that the Respondent registered and has used the disputed domain name in order to take unfair advantage of the Complainant’s goodwill in its TEVA and TEVAPHARM trademarks, which cannot give rise to rights or legitimate interests on the Respondent’s part. The Panel therefore finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C. Registered and Used in Bad Faith

The Panel finds the Complainant’s trademarks TEVA and TEVAPHARMA to be distinctive and to have gained widespread international recognition in connection with the Complainant’s pharmaceutical business. In the circumstances, and in the absence of any explanation from the Respondent for its choice of the disputed domain name, the Panel can only reasonably infer that the Respondent registered the disputed domain name in the knowledge of the Complainant’s trademarks and with the intention of taking unfair advantage of the goodwill attaching to them by causing confusion among Internet users.

The Panel also finds that the Respondent used the disputed domain name to resolve to the Complainant's own website until the disputed domain name was suspended by the relevant hosting company. The Panel can see no reasonable explanation for this other than, as the Complainant submits, falsely to establish an apparent connection between the disputed domain name and the Complainant of which the Respondent would be liable to take unfair commercial advantage at a later date. The Panel finds therefore, that by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to a website by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of its website or of a product or service on its website (paragraph 4(b)(iv) of the Policy).

The Panel also notes the Respondent's configuration of email servers in connection with the disputed domain name, which the Panel finds to be inherently deceptive in nature, particularly noting the composition of the disputed domain name. In the circumstances, the Panel is unable to envisage any use of such email addresses other than in bad faith.

The Panel therefore finds that the disputed domain name has been registered and is being used in bad faith.

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, <tevapharmsinc.com>, be transferred to the Complainant.

/Steven A. Maier/

Steven A. Maier

Sole Panelist

Date: May 4, 2023