

## **ADMINISTRATIVE PANEL DECISION**

Teva Pharmaceutical Industries Ltd. v. Van Rudy  
Case No. D2023-3392

### **1. The Parties**

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

The Respondent is Van Rudy, United States of America.

### **2. The Domain Name and Registrar**

The disputed domain name <tevapharmsolicitors.com> is registered with Hostinger, UAB (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 8, 2023. On August 8, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 10, 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 (Domain Admin, Privacy Protect. LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 15, 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 August 15, 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 August 21, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 10, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 11, 2023.

The Center appointed Gustavo Patricio Giay as the sole panelist in this matter on September 26, 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 an international pharmaceutical leading company - operating since 1935 - that delivers patients centric healthcare solutions, with a portfolio of 3,600 different products in almost every therapeutic area. The Complainant claims to produce 76 billion tablets and capsules annually at 53 manufacturing facilities worldwide.

In fact, the Complainant's annual report 2022 reflects that the Complainant is active in over 60 countries, and it had revenues of more than USD 14.9 billion and more than 37,000 employees internationally.

The Complainant is the owner of the trademark TEVA in many jurisdictions, including the International registration Reg. No. 1319184, registered on June 15, 2026, in classes 5, 10 and 42; European Union Intellectual Property Office (EUIPO) Reg. No. 000115394, registered on April 29, 1998, in class 5; United States Patent and Trademark Office (USPTO) Reg. No. 1567918, registered on November 28, 1989, in class 5 and Reg. No. 2353386, registered on May 30, 2000, in class 5; Israel Trademark Office Reg. No. 41075, registered on July 5, 1977, in class 5; and the Canadian Intellectual Property Office Reg. No. TMA411063, registered on April 16, 1993, in classes 3, 5 and 10. Also, the Complainant is the owner of the trademark TEVAPHARM in many countries including the EUIPO Reg. No. 018285645, registered on January 9, 2021, in classes 5 and 44; Danish Trademark Office Reg. No. VR 2011 02130 registered on August 31, 2011, in classes 5, 10 and 35; and the United Kingdom Intellectual Property Office Reg. No. UK00003577956, registered on May 21, 2021, in classes 5 and 44. The Panel has confirmed that the referred registrations have been timely renewed.

Likewise, the Complainant asserts to have online presence in Internet through, among others, its primary website "www.tevapharm.com" registered in 1996.

Lastly, the disputed domain name <tevapharmsolicitors.com> was registered on June 18, 2023, and resolves to an inactive website.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant claims that the disputed domain name is confusingly similar to its trademarks TEVA and TEVAPHARM on which the Complainant has prior rights.

The Complainant claims that the Respondent is not affiliated with the Complainant in any way. Neither license nor authorization has been granted to the Respondent to make any use of the Complainant's trademarks TEVA or TEVAPHARM or apply for registration of the disputed domain name.

More specifically, the Complainant alleged that the Respondent is passively holding the disputed domain name and, even more, that the disputed domain name is associated with email servers (MX servers), upon which it could be inferred that it is being used for spamming or phishing purposes.

Finally, the Complainant has requested the Panel to issue a decision ordering the transfer of the disputed domain name to the Complainant.

##### **B. Respondent**

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

## 6. Discussion and Findings

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain name, the Complainant must prove each of the following, namely that:

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

### A. Identical or Confusingly Similar

As set forth in section 1.7 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") the standing test for confusing similarity involves a reasoned but relatively straightforward comparison between the trademark and the disputed domain name to determine whether the disputed domain name is confusingly similar with the trademark. The test involves a side-by-side comparison of the disputed domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.

The Panel considers that the disputed domain name <tevapharmsolicitors.com> is confusingly similar to the Complainant's TEVA and TEVAPHARM trademarks since, even when it includes the word "solicitors", it incorporates the Complainant's trademarks TEVA and TEVAPHARM in their entirety.

Moreover, the ".com" generic Top-Level Domain ("gTLD") is viewed as a standard registration requirement and is generally disregarded under the first element of the confusing similarity test, as set forth in section 1.11.1 of [WIPO Overview 3.0](#).

Based on the above, the Panel finds that the disputed domain name is confusingly similar to the trademarks TEVA and TEVAPHARM on which the Complainant has rights and that the requirements of paragraph 4(a)(i) of the Policy are fulfilled.

### 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 non-exclusive defenses:

- (i) before any notice to it of the dispute, the 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) the respondent has been commonly known by the domain name, even if it has acquired no trademark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain, to misleadingly divert consumers.

Although the Policy addresses ways in which a respondent may demonstrate rights or legitimate interests in a disputed domain name, it is well established that a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the domain name (section 2.1 of [WIPO Overview 3.0](#)). Once such *prima facie* case is made, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name and if the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element (see *Do The Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#); *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#)).

The Complainant has claimed not to have authorized, licensed, or permitted the Respondent to register or use the disputed domain name or to use the TEVA and TEVAPHARM trademarks nor there is any other evidence in the file suggesting that the Respondent has or could have rights or legitimate interests in the disputed domain name. Also, the Complainant has prior rights in the TEVA and TEVAPHARM trademarks which clearly precede the Respondent's registration of the disputed domain name. Furthermore, the nature of the disputed domain name, which consist of TEVAPHARM trademark combined with an additional term, carries a risk of implied affiliation (section 2.5.1 of [WIPO Overview 3.0](#)).

Given these circumstances, the Panel finds that the Complainant has made out a *prima facie* case. Having made such *prima facie* case, the burden of production then shifted to the Respondent to refute the Complainant's assertion or to demonstrate *bona fide* use of the disputed domain name. The Respondent has not submitted a reply, and the Panel is unable to consider any reasonable basis upon which the Respondent could sensibly be said to have any rights or legitimate interests in respect of the disputed domain name (see *Telstra Corporation Ltd. v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

The Panel therefore finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name and that the requirements of paragraph 4(a)(ii) of the Policy have been fulfilled.

### **C. Registered and Used in Bad Faith**

Paragraph 4(b) of the Policy contains a non-exhaustive list of factors evidencing registration and use in bad faith. Among others, it states that it is sufficient to support a finding of bad faith the fact that by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on the website or location.

In such connection, the Complainant has submitted evidence to support that the trademarks TEVA and TEVAPHARM are widely known and were registered and used many years before the Respondent registered the disputed domain name. The Respondent when registering the disputed domain name has targeted the Complainant's trademarks TEVA and TEVAPHARM to generate confusion among the Internet users and benefit from the Complainant's reputation.

Therefore, the Panel is satisfied that the Respondent must have been aware of the Complainant and the Complainant's trademarks TEVA and TEVAPHARM when it registered the disputed domain name on June 18, 2023. Consequently, and in accordance with section 3.1.4 of [WIPO Overview 3.0](#), the Panel considers that the inclusion of the Complainant's TEVAPHARM trademark in the disputed domain name creates a presumption that the disputed domain name was registered on a bad faith basis.

Additionally, the clear absence of rights or legitimate interests coupled with no credible explanation for the Respondent's choice of the disputed domain name is also a significant factor to consider that the disputed domain name was registered in bad faith (as stated in section 3.2.1 of [WIPO Overview 3.0](#)).

Furthermore, as per section 3.3 of [WIPO Overview 3.0](#), the fact that the disputed domain name does not resolve to an active website does not prevent a finding of bad faith under the doctrine of passive holding (see also *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

In connection with the Respondent's passive holding of the disputed domain name, the Panel considers the following factors: (a) that the Complainant's trademarks TEVA and TEVAPHARM are well known; (b) the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good-faith use; (c) the Respondent's concealing its identity; and (d) any good faith use of the disputed domain name, incorporating the Complainant's trademarks in their entirety, is implausible.

Also, the activation of MX records raises the possibility that the Respondent is using the disputed domain name to send suspicious emails such as phishing emails. This further underscores the Respondent's bad faith in both registering and using the disputed domain name.

In view of the above given reasons, the Panel finds that the Respondent has registered and used the disputed domain name 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 <tevapharmsolicitors.com> be transferred to the Complainant.

*/Gustavo Patricio Giay/*

**Gustavo Patricio Giay**

Sole Panelist

Date: October 10, 2023