

ADMINISTRATIVE PANEL DECISION

Teva Pharmaceutical Industries Ltd. v. hovo tarred
Case No. DPW2024-0001

1. The Parties

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

The Respondent is hovo tarred, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <havotevapharma-jp.pw> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 14, 2024. On February 16, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 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 (Not Disclosed) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 21, 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 February 22, 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 February 27, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 18, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 19, 2024.

The Center appointed Erica Aoki as the sole panelist in this matter on March 26, 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 (although its predecessor started its activities in 1901) and is a leading global pharmaceutical company that delivers high-quality, patient centric healthcare solutions used by millions of patients every day. The Complainant is one of the world's largest generic medicines producers, leveraging a portfolio of 3,600 different products in nearly every therapeutic area. In specialty medicines, the Complainant has a world-leading position in innovative treatments for disorders of the central nervous system, including pain, as well as a strong portfolio of respiratory products. The Complainant produces annually 76 billion tablets and capsules at 53 manufacturing facilities worldwide. According to the Complainant's annual report, the Complainant was active in 2022 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 holder of numerous trademarks for TEVA, covering many jurisdictions around the world such as the following:

- Israel trademark registration TEVA (word) No. 41075 registered on July 5, 1977;
- United States of America trademark registration TEVA (word) No. 1567918 registered on November 28, 1989; and
- European Union Trademark registration TEVA (word) No. 001192830 registered July 18, 2000.
- European Union Trademark registration TEVAPHARM (word) No. 018285645, registered on January 9, 2021,

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.italia.it> for Italy. The Complainant's domain name <tevapharm.com> was registered on June 14, 1996, in the name of the Complainant's subsidiary Teva Pharmaceuticals USA, Inc.

The disputed domain name was registered on October 23, 2023, and does not currently resolve to an active website. However, it previously resolved to a website that sought to convey to the Internet user that it could be linked to the Complainant and its activities. A private investigator hired by the Complainant has confirmed that the company Havoteva Pharmaceutical Co., Ltd. (shown in the website and extremely similar to Teva Pharmaceutical Industries Ltd.) does not exist, and that the contact information provided at the website seems to be fake and the website reproduces copyrighted images taken from Complainant's website, in an unauthorized manner.

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 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, the Complainant claims that considering that the disputed domain name comprises the Complainant's TEVA trademarks in full, and that the disputed domain name is extremely similar to the

Complainant's domain name <tevapharm.com> (which predates the registration of the disputed domain name), it is impossible to believe that the Respondent would have chosen the disputed domain name if it did not have the Complainant's marks and activities in mind.

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 and TEVAPHARM trademarks by the addition of a hyphen and the terms "havo" and "jp", and the addition of the letter "a", these additions do not alleviate the confusing similarity between the Complainant's TEVA and TEVAPHARM marks and the disputed domain name since the TEVA and TEVAPHARM trademarks remain prominent and clearly recognizable in the disputed domain name and is therefore confusingly similar to the Complainant's trademark.

Finally, although the disputed domain name includes the country code Top-Level Domain ("ccTLD") ".pw", [WIPO Overview 3.0](#), section 1.11 states that "The applicable Top Level Domain ('TLD') in a domain name (e.g., '.com', '.club', '.nyc') is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test"). The ccTLD ".pw" is, therefore, inconsequential to determine similarities between the Complainant's TEVA and TEVAPHARM trademarks and the disputed domain name.

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.

Taking the above into consideration, and also bearing in mind that the disputed domain name incorporates the Complainant's TEVA and TEVAPHARM trademarks in full, there is no doubt that the disputed domain name seeks to capitalize the reputation and goodwill of the Complainant's TEVA and TEVAPHARM trademarks, and that the Respondent selected the disputed domain name with the intention of drawing Internet users to its website by virtue of the attractive force of the Complainant's trademarks, misleading consumers into thinking that the website is affiliated with the Complainant, when it is not the case.

The disputed domain name wholly incorporates the Complainant's well-known trademarks, together with generic terms (a hyphen, the letter "a", the term "havo" and an abbreviation the country name "Japan"), being also the disputed domain name extremely similar to the Complainant's domain name, there is no doubt that the disputed domain name carries a high risk of implied false affiliation with the Complainant and its activities (section 2.5.1 of [WIPO Overview 3.0](#)), as it could give Internet users the impression that the disputed domain name belongs to the Complainant or a Company affiliated to the Complainant.

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 trademarks.

Since the disputed domain name resolved to a website that included copyrighted images taken from the Complainant's website, in an unauthorized manner, this fact supports the inference that the Respondent was aware of the Complainant and that registered the disputed domain name in bad faith.

Further, the previous use of the disputed domain name resolving to a website that sought to convey to the Internet user that it could be linked to the Complainant and its activities indicates use in bad faith.

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.

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 <havotevapharma-jp.pw> be transferred to the Complainant.

/Erica Aoki/

Erica Aoki

Sole Panelist

Date: April 11, 2024