

ADMINISTRATIVE PANEL DECISION

Teva Pharmaceutical Industries Ltd. v. 王化德 (Hua De Wang)
Case No. D2022-3093

1. The Parties

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

The Respondent is 王化德 (Hua De Wang), China.

2. The Domain Name and Registrar

The disputed domain name <tevaseverancbenefits.com> (the “Disputed Domain Name”) is registered with Chengdu West Dimension Digital Technology Co., Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on August 22, 2022. On August 22, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On August 23, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on August 24, 2022 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 in English on August 24, 2022.

On August 24, 2022, the Center transmitted another email communication to the Parties in English and Chinese regarding the language of the proceeding. On August 24, 2022, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

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 in English and Chinese of the Complaint, and the proceedings commenced on August 31, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 20, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 21, 2022.

The Center appointed Kar Liang Soh as the sole panelist in this matter on September 28, 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

The Complainant is a pharmaceutical company headquartered in Israel with operations globally. The Complainant's business traces its roots as far back as 1901. It operates 40 pharmaceutical plants and has over 37,000 employees across 58 countries.

The Complainant uses trademark centered around the word TEVA (TEVA Mark) in relation to its products and services around the world, and owns many registrations for the TEVA Mark, including:

Jurisdiction	Trademark No.	Registration date
China	644291	June 7, 1993
European Union	001192830	July 18, 2000
United States	1567918	November 28, 1989
International Registration	1319184	June 15, 2016

The TEVA Mark has also been incorporated in many domain names held by the Complainant, including <tevapharm.com>, <teva.cn>, and <tevaseverancebenefits.com>. The TEVA Mark has been the subject of many prior domain name disputes, including *Teva Pharmaceutical Industries Ltd. v. Domain Administrator*, See *PrivacyGuardian.org / Torsten Burger*, WIPO Case No. [D2021-0924](#); *Teva Pharmaceutical Industries Limited v. 石磊 (Shi Lei)*, WIPO Case No. [D2021-1522](#); *Teva Pharmaceutical Industries Ltd. v. WhoisGuard Inc. / Dave Tapper*, WIPO Case No. [D2020-3484](#); and *Teva Pharmaceutical Industries, Ltd v. Oneandone Private Registration, 1&1 Internet Inc / Kristin Beckman*, WIPO Case No. [D2018-1029](#). The learned panels in WIPO Case No. [D2021-0924](#) and WIPO Case No. [D2021-1522](#) have also found the TEVA Mark to be well-known.

Information about the Respondent is largely limited to that disclosed in the Registrar's verification in this proceeding. The Respondent appears to be an individual based in China.

The Disputed Domain Name was registered on June 30, 2022. On or before August 18, 2022, the Disputed Domain Name resolved to a website which triggered a firewall security alert that it is attempting to download a virus-infected file before presenting a what appears to be a parking webpage presenting various prominent banner links with titles like "Employee Benefits Package", "Workers Compensation", and the like. On or before August 31, 2022, it resolved to a similar webpage presenting three prominent banners entitled "Biopharmaceutical Company", "Employee Benefit", and "Employee Benefits". The warning provides a Fortinet hosted explanation that the identified virus is classified as a trojan. A trojan performs activities without the user's knowledge which commonly include establishing remote access.

5. Parties' Contentions

A. Complainant

The Complainant contends that:

a) The Disputed Domain Name is identical or confusingly similar to a trademark in which it has rights. It differs from the Complainant's domain name <tevaseverancebenefits.com> by deleting one letter "e". The TEVA Mark is clearly recognizable in the Disputed Domain Name which is a clear instance of typo-squatting. The difference does not prevent a finding of confusing similarity between the TEVA Mark and the Disputed Domain Name;

b) The Respondent has no rights or legitimate interests in respect of the Disputed Domain Name. The Respondent is not a licensee of the Complainant and has not been otherwise authorized or allowed by the Complainant to make any use of the TEVA Mark in a domain name or otherwise. The Respondent is unable to invoke any circumstances (*i.e.*, *bona fide* offering of goods or services, being commonly known by the Disputed Domain Name, noncommercial or fair use) that demonstrates rights or legitimate interests in the Disputed Domain Name. The Respondent has registered the Disputed Domain Name with the intention of making illegitimate and illegal commercial gains; and

c) The Disputed Domain Name was registered and is being used in bad faith. There is no plausible reason for the registration and use of the Disputed Domain Name other than with the ulterior motive of using it to gain revenue through redirection by creating a likelihood of confusion with the TEVA Mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website. Redirection to a malware infected website corroborates the bad faith behind the registration of the Disputed Domain Name. The Disputed Domain Name is also potentially disruptive to the Complainant's business activities and may result in tarnishing its reputation and goodwill.

B. Respondent

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

6. Discussion and Findings

6.1 Language of Proceeding

The registration agreement is in Chinese language. The default language of proceeding in accordance with paragraph 11 of the Rules should be Chinese, subject to the Panel's general power to determine otherwise. The Complainant has requested that English be adopted as the language of proceeding. Having considered the circumstances, the Panel grants the Complainant's request to adopt English as the language of this proceeding. In doing so, the following factors were considered:

- a) The Complaint has already been submitted in English;
- b) The Respondent did not submit any Response;
- c) The Respondent did not object to the Complainant's request for English to be adopted;
- d) The Complainant has confirmed that it is unable to understand Chinese, and that it would be burdensome and expensive to translate the Complaint into Chinese;
- e) The Respondent appears conversant in English as evidenced by the purely English-language webpages resolved from the Disputed Domain Name;
- f) No procedural benefit would be achieved by insisting that the default language of the proceeding be maintained. Instead, unnecessary delay of the proceeding will surely arise if such a requirement were to be imposed in this proceeding;
- g) The Panel is bilingual and conversant in English and Chinese. Had the Respondent opted to submit a Response, any communication or documents in Chinese, the Panel would have been equally equipped to review and consider them fairly and expeditiously. In any event, such circumstances have not arisen.

6.2 Discussion

In order to succeed in this proceeding, the Complainant must establish all 3 limbs of paragraph 4a) of the Policy, namely:

- a) The Disputed Domain Name is identical or confusingly similar to a trademark in which the Complainant has rights;
- b) The Respondent has no rights or legitimate interests in the Disputed Domain Name; and
- c) The Disputed Domain Name was registered and is being used in bad faith.

The Panel will consider each of these limbs in turn.

A. Identical or Confusingly Similar

The Panel accepts that the Complainant has rights in the TEVA Mark in view of the various trademark registrations tendered in the evidence. The Panel agrees with the Complainant that the TEVA Mark is prominent and recognizable in the Disputed Domain Name despite the addition of the suffix characters “severancbenefits”. In accordance with the consensus opinion of past panels outlined in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), the Top-Level Domain “.com” of the Disputed Domain Name may be disregarded in the comparison of the TEVA Mark and the Disputed Domain Name. The suffix “severancbenefits” is clearly a concatenated misspelling of the words “severance benefit” and does not prevent the TEVA Mark from being readily recognizable in the Disputed Domain Name, and certainly does not prevent the Panel from concluding that the Disputed Domain Name is confusingly similar to the TEVA Mark.

The Panel holds that the first limb of paragraph 4(a) of the Policy is established.

B. Rights or Legitimate Interests

The Complainant has confirmed unequivocally that the Respondent is neither licensed nor authorized to use the TEVA Mark in association with a domain name or otherwise. There is nothing in the evidence before the Panel to suggest that the Respondent has any rights or legitimate interests in the Disputed Domain Name. There is also nothing in the evidence to suggest that the Respondent is known by the Disputed Domain Name or is making any noncommercial or fair use of the Disputed Domain Name. As such, the Panel is satisfied that the Complainant has made out a *prima facie* case that the Respondent has neither rights nor legitimate interests in the Disputed Domain Name. Since no Response has been forthcoming from the Respondent, the *prima facie* case is unrebutted and the second limb of paragraph 4(a) of the Policy has also been established on the facts.

C. Registered and Used in Bad Faith

Having reviewed the evidence, the Panel finds that the TEVA Mark is well-known. As such, the Panel finds it inconceivable that the Respondent could not have been aware of the TEVA Mark when registering the Disputed Domain Name. Against such a backdrop, the Panel also finds it hard to excuse the near identity between the Disputed Domain Name and the Complainant’s domain name <tevasseverancebenefits.com> as mere coincidence. Rather, their similarity reinforces an inference that the Respondent was well aware of the TEVA Mark and the Complainant.

The Panel also notes the Complainant’s evidence that clicking on the links on the parking webpage resolved from the Disputed Domain Name triggers a malware warning of a virus-infected file that is publicly recognized as a trojan that operates without the user’s knowledge to establish remote access among other things. Such dangerous devices could in all likelihood expose Internet users to ransomware, information hijacking, and serious data breaches for purposes of illegal financial gains.

In the face of such serious allegations, the Respondent has chosen to remain silent. The Panel believes that a reasonable respondent that has been misunderstood or maligned by such allegations would have responded in denial rather than remaining silent. In not responding, the Panel is led to draw an adverse inference that the allegations are true.

Accordingly, it is clear to the Panel that the present circumstances fall squarely within the situation of bad faith registration and use described in paragraph 4b)iv) of the Policy, which is set out below:

“by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location”

The Panel finds that the Respondent has in using the Disputed Domain Name, intentionally attempted to attract, for commercial gain, Internet users to the Respondent’s website, by creating a likelihood of confusion with the TEVA Mark as to the source, sponsorship, affiliation, or endorsement of the website. The third limb of paragraph 4(a) of the Policy has accordingly been successfully established by the Complainant in the circumstances.

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 <tevaseverancbenefits.com> be transferred to the Complainant.

/Kar Liang Soh/

Kar Liang Soh

Sole Panelist

Date: November 2, 2022