

## **ADMINISTRATIVE PANEL DECISION**

**Teva Pharmaceutical Industries Ltd. v. Dale Stehlik**  
**Case No. D2023-3935**

### **1. The Parties**

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

The Respondent is Dale Stehlik, United States of America ("United States").

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

The disputed domain name <tevaparm.com> is registered with NameCheap, Inc. (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 20, 2023. On September 20, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 21, 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 (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 26, 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 October 1, 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 October 3, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 23, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 24, 2023.

The Center appointed Federica Togo as the sole panelist in this matter on November 20, 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 the registered owner of several trademarks consisting and/or containing TEVA, e.g. European Union Trademark Registration no. 000115394, TEVA, registered on April 29, 1998, for goods in class 5; United States Trademark Registration no. 1567918, TEVA, registered on November 28, 1989, for goods in class 5; and European Union Trademark Registration no. 018285645, TEVAPHARM (word mark), registered on January 9, 2021, for goods and services in classes 5 and 44.

The disputed domain name was registered on July 31, 2023.

Furthermore, the undisputed evidence provided by the Complainant proves that the disputed domain name resolves to a parking page displaying pay-per-click ("PPC") links related – amongst others – to the pharmaceutical industry (area in which the Complainant operates).

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

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

It results from the Complainant undisputed allegations that it was established in 1935 and is a leading global pharmaceutical company. The Complainant produces annually circa 76 billion tablets and capsules at 53 manufacturing facilities worldwide. 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.

In addition, the Complainant operates the domain name <tevapharm.com> in order to promote its activities.

The Complainant contends that its trademarks TEVA and TEVAPHARM have a significant reputation and are well-known.

The Complainant further contends that the disputed domain name is confusingly similar to its trademark TEVA, since it incorporates the Complainant's TEVA trademark in full, together with the letters "parm" and the generic Top-Level Domain ("gTLD") ".com". However, these additions do not prevent a finding of confusing similarity between the Complainant's trademark and the disputed domain name. Hence, there is little doubt that the TEVA mark is clearly recognizable in the disputed domain name regardless of the addition of the letters "parm".

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name. According to the Complainant, it has not authorized the Respondent to use its TEVA and TEVAPHARM marks for any reason or in any manner, including in or as part of the disputed domain name. Likewise, the Complainant is not affiliated or otherwise connected with the Respondent. The Complainant has found no evidence that the Respondent has been commonly known by the disputed domain name or by the term "tevaparm". Since the disputed domain name resolves to a website with PPC links, showing several hyperlinks related to the pharmaceutical industry, area in which the Complainant and its TEVA marks are well-known, for the purpose of generating PPC revenues, the Respondent is using the disputed domain name to unfairly capitalize upon and take advantage of the similarity with the Complainant's mark.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. According to the Complainant, the Respondent registered a domain name which incorporates a well-known trademark and this is alone sufficient to give rise to an inference of bad faith. In addition, the disputed domain name resolves to a PPC website showing a variety of hyperlinks to third parties' sites, mostly related to the pharmaceutical industry, area in which the Complainant and its marks are well-known. The Complainant finds more than likely that the Respondent intentionally attempted to attract, for commercial gain, Internet users to its own website by creating a likelihood of confusion with the Complainant's TEVA and TEVAPHARM trademarks as to the source, sponsorship, affiliation or endorsement of this website.

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 15(a) of the Rules instructs this Panel to “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”. Paragraph 4(a) of the Policy requires a complainant to prove each of the following three elements in order to obtain an order that the disputed domain name be transferred or cancelled:

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

The Panel will therefore proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied.

### **A. Identical or Confusingly Similar**

Pursuant to paragraph 4(a)(i) of the Policy, the Complainant must establish rights in a trademark or service mark and secondly establish that the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights.

It results from the evidence provided, that the Complainant is the owner of various trademark registrations for TEVA as indicated in the Factual Background of this Decision.

Prior UDRP panels have found that a disputed domain name is confusingly similar to a complainant's trademark where the disputed domain name incorporates the complainant's trademark in its entirety (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) at section 1.7.

This Panel shares this view and notes that the Complainant's registered trademark TEVA is fully included in the disputed domain name, followed by the term “parm”. Furthermore, it is the view of this Panel that the addition of the term “parm” in the disputed domain name cannot prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark since the Complainant's trademark is clearly recognizable in the disputed domain name (see [WIPO Overview 3.0](#) at section 1.8).

Finally, the gTLD “.com” of the disputed domain name may be disregarded under the first element confusing similarity test as it is viewed as a standard registration requirement (see [WIPO Overview 3.0](#) at section 1.11.1).

In the light of the above, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

### **B. Rights or Legitimate Interests**

Pursuant to paragraph 4(a)(ii) of the Policy, the Complainant must secondly establish that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Paragraph 4(c) of the Policy contains a non-exhaustive list of circumstances which, if found by the Panel to be proved, shall demonstrate the Respondent's rights or legitimate interests to the disputed domain name. In the Panel's view, based on the undisputed allegations stated above, the Complainant has made a *prima facie* case that none of these circumstances are found in the case at hand and, therefore, that the Respondent lacks rights or legitimate interests in the disputed domain name.

According to the Complaint, which has remained unchallenged, the Complainant has no relationship in any way with the Respondent and did, in particular, not authorize the Respondent's use of the trademark TEVA or the registration of the disputed domain name.

Furthermore, the Panel notes that there is no evidence showing that the Respondent might be commonly known by the disputed domain name in the sense of paragraph 4(c)(ii) of the Policy.

In addition, it results from the undisputed evidence before the Panel that the disputed domain name resolves to a parking website comprising PPC links that compete with or capitalize on the Complainant's trademark (being related to the pharmaceutical industry area in which the Complainant operates). UDRP panels have found that the use of a domain name to host a parked page comprising PPC links does not represent *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users (see [WIPO Overview 3.0](#) at section 2.9, with further references). This Panel shares this view and notes that the Complainant's trademark TEVA is well-known, as stated by previous UDRP panels (see e.g. *TEVA Pharmaceutical Industries Limited v. Solomon sheriff*, WIPO Case No. [D2023-0570](#)). Therefore, such use can neither be considered as *bona fide* offering of goods or services nor a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

It is acknowledged that once the Panel finds a *prima facie* case is made by a complainant, the burden of production under the second element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name (see [WIPO Overview 3.0](#) at section 2.1). Since the Respondent in the case at hand failed to come forward with any allegations or evidence, this Panel finds, in the circumstances of this case, that the Respondent has no rights or legitimate interests in the disputed domain name.

The Complainant has therefore satisfied paragraph 4(a)(ii) of the Policy.

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

According to paragraph 4(a)(iii) of the Policy, the Complainant must thirdly establish that the disputed domain name has been registered and is being used in bad faith. The Policy indicates that certain circumstances specified in paragraph 4(b) of the Policy may, "in particular but without limitation", be evidence of the disputed domain name's registration and use in bad faith.

One of these circumstances is that the Respondent by using the disputed domain name, 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 its website or location or of a product or service on its website or location (paragraph 4(b)(iv) of the Policy). It is the view of this Panel that these circumstances are met in the case at hand.

Based on the evidence submitted by the Complainant, the Panel shares the view of other UDRP panels and finds that the Complainant's trademark TEVA is well-known. UDRP panels have found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely known trademark by an unaffiliated entity can by itself create a presumption of bad faith (see [WIPO Overview 3.0](#) at section 3.1.4, with further references). This Panel shares this view and notes that the domain name fully incorporates the well known trademark TEVA.

In addition, the Complainant also proved that the disputed domain name resolves to parking website comprising PPC links that compete with or capitalize on the reputation and goodwill of the Complainant's trademark or otherwise mislead Internet users, so that the Panel is satisfied that the disputed domain name, incorporating in its entirety the Complainant's trademark TEVA, is being used to intentionally attempt to attract, for commercial gain, Internet users to the Respondent's website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation or endorsement of the Respondent's website or location.

Finally, the further circumstances surrounding the disputed domain name's registration and use confirm the findings that the Respondent has registered and is using the disputed domain name in bad faith (see [WIPO Overview 3.0](#) at section 3.2.1):

- (i) the disputed domain name incorporates the Complainant's mark TEVA and at the same time is a misspelling of the Complainant's trademark TEVAPHARM (i.e. typosquatting);
- (ii) a clear absence of rights or legitimate interests coupled with no credible explanation for the Respondent's choice of the disputed domain name; and
- (iii) the disputed domain name has been set up with MX records, suggesting that the Respondent intended to create email addresses.

In the light of the above, the Panel finds that the disputed domain name has been registered and is being used in bad faith pursuant to paragraph 4(a)(iii) 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, <tevaparm.com>, be transferred to the Complainant.

*/Federica Togo/*

**Federica Togo**

Sole Panelist

Date: December 4, 2023