

ADMINISTRATIVE PANEL DECISION

Teva Pharmaceutical Industries Ltd v. Kim Hasko
Case No. D2024-3194

1. The Parties

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

The Respondent is Kim Hasko, United States of America ("US").

2. The Domain Name and Registrar

The disputed domain name <tevaphama.com> (the "Disputed Domain Name") is registered with Hostinger Operations, UAB (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on August 4, 2024. On August 5, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On August 6, 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 (Domain Admin / Privacy Protect, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 6, 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 August 6, 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 August 9, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 29, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 30, 2024.

The Center appointed Mariia Koval as the sole panelist in this matter on September 4, 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, founded in 1901, is an international widely known pharmaceutical company and is one of the largest generic drug manufacturers in the world, being the 18th largest pharmaceutical company in the world. The Complainant maintains a portfolio of approximately 3,600 medicines, reaching nearly 200 million people across 58 markets and six continents every day. The Complainant has over 50 manufacturing facilities and about 37,000 employees.

The Complainant is the owner of numerous TEVA, TEVA PHARM and TEVAPHARM trademark registrations (collectively, the “TEVA Trademarks”) in various jurisdictions worldwide, among which are:

- Israel Trademark Registration No. 41075 for TEVA, registered on July 5, 1977, in respect of goods in class 5;
- US Trademark Registration No. 1567918 for TEVA, registered on November 28, 1989, in respect of goods in class 5;
- Israel Trademark Registration No. 164291 for TEVA PHARM, registered on May 5, 2004, in respect of goods in class 5;
- European Union Trademark Registration No. 018285645 for TEVAPHARM, registered on January 9, 2021, in respect of goods and services in classes 5 and 44;
- France Trademark Registration No. 3256982 for TEVA PHARMA, registered on November 14, 2003, in respect of goods in class 5.

The Complainant and its affiliated companies hold many domain names which encompass the TEVA Trademarks, tailored for different jurisdictions around the world, among which are <tevapharm.com>, <tevausa.com>, <tevauk.com>, <tevaItalia.it>, <tevapharm.us>. The Complainant also operates pages on various social media platforms, particularly Facebook, Instagram, LinkedIn, where the TEVA Trademarks are extensively used and promoted.

The Disputed Domain Name was registered on July 23, 2024. As at the dates of filing of the Complaint and this Decision, the Disputed Domain Name resolves to an inactive website. Moreover, according to the evidence presented by the Complainant (Annex 11 to the Complaint) mail exchange (“MX”) servers are configured.

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 Disputed Domain Name is confusingly similar to the Complainant’s TEVA Trademarks. The Disputed Domain Name incorporates the Complainant’s TEVA Trademarks in their entirety with omission of letter “r” in the word “pharma”.

The Complainant further asserts that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name in view of the following:

- the Respondent does not have trademark rights for, nor is it known by, “tevaphama” or any similar term;
- the Respondent is not connected to nor affiliated with the Complainant and has not received license or

consent to use the TEVA Trademarks in any way;

- the Respondent has not used, nor prepared to use, the Disputed Domain Name in connection with a bona fide offering of goods or services, nor a legitimate noncommercial or fair use since the Disputed Domain Name does not resolve to an active website;
- the Respondent's use of the Disputed Domain Name cannot be considered fair as its typosquatting nature capitalizes on, and unfairly diverts Internet users seeking, the Complainant's offerings.

The Complainant further contends that the Respondent registered and is using the Disputed Domain Name in bad faith based on the following: The Complainant has accrued substantial goodwill and recognition in the TEVA Trademarks, which was first registered more than 40 years ago. It is therefore evident that, notwithstanding other considerations, the simplest degree of due diligence would have otherwise made the Respondent aware of the Complainant's rights in the globally renowned TEVA Trademarks. The Respondent's selection of the typosquatting Disputed Domain Name (highly similar to both the Complainant's domain name <tevapharm.com> and TEVA Trademarks) is evidence of the Respondent's prior awareness and targeting of the Complainant through its registration of the Disputed Domain Name. The Respondent's selection of the Disputed Domain Name reflects its intention to misleadingly capture and divert Internet users attempting to reach, but who have inadvertently mistyped the string of, the Complainant's official website.

There is no evidence of the Respondent having made, or having attempted to make, any good faith, legitimate noncommercial or fair use of the Disputed Domain Name, or of being commonly known by such. It is also clear, given the composition of the Disputed Domain Name that no good faith use could be made of it by the Respondent.

The Complainant further submits that the Respondent has configured the Disputed Domain Name with multiple MX records (Annex 11 to the Complaint). The Respondent's configuration of such records, given its lack of rights or interests in the Disputed Domain Name strongly indicates that the Respondent may use the Disputed Domain Name to engage in email phishing or other fraudulent activities. Internet users receiving emails from an address ending in "@tevaphama.com" are, given its high similarity to the Complainant's website "www.tevapharm.com", highly likely to form the immediate and false impression that any such correspondence has been sent by the Complainant.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, a complainant to succeed must satisfy the panel that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which 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 was 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 the TEVA Trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the Complainant's TEVA trademark is reproduced within the Disputed Domain Name. With omission of the letter "r" in the word "pharma", the Complainant's TEVA PHARMA trademark is also recognizable within the Disputed Domain Name. The Disputed Domain Name appears to be typical example of typosquatting, i.e. a misspelling of the Complainant's TEVA PHARMA trademark. According to the [WIPO Overview 3.0](#), section 1.9, a domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element. The Panel finds that omission of the letter "r" in the word "pharma" in the Disputed Domain Name does not prevent the Disputed Domain Name from being confusingly similar to the Complainant's TEVA Trademarks.

Accordingly, the Disputed Domain Name is confusingly similar to the Complainant's TEVA Trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, 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.

There is no evidence that the Complainant has licensed or otherwise permitted the Respondent to use its TEVA Trademarks or to register the Disputed Domain Name which is confusingly similar to the TEVA Trademarks. There is also no evidence that the Respondent is commonly known by the Disputed Domain Name.

The Panel is of opinion that there is no evidence that the Respondent is using the Disputed Domain Name to offer bona fide goods or services or making a legitimate noncommercial or fair use. On the contrary, as at the dates of filing of the Complaint and this Decision the Disputed Domain Name resolves to an inactive website.

Also, given the typosquatting nature of the Disputed Domain Name, the construction of the Disputed Domain Name is likely to mislead or cause confusion, which was likely the main intent of the Respondent when registering the Disputed Domain Name, which cannot amount to fair use nor confer rights or legitimate interests upon the Respondent.

Finally, the Respondent did not respond to the Complainant's contentions and did not participate in this proceeding, respectively, the Respondent did not present any evidence for supporting any rights or legitimate interests in the Disputed Domain Name.

In view of the foregoing, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Respondent registered and is using the Disputed Domain Name in bad faith in view of the following. The Complainant obtained the registration of the TEVA Trademarks more than 40 years earlier than the Respondent registered the Disputed Domain Name in 2024. Taking into account all circumstances of this case, the Panel finds that the Respondent was very well aware of the Complainant's business and its TEVA Trademarks when registering the confusingly similar Disputed Domain Name that completely incorporates the Complainant's TEVA trademark and a misspelled version of the TEVA PHARMA trademark. The Panel considers it is obvious bad faith that the Respondent deliberately chose the Disputed Domain Name to create a likelihood of confusion with the Complainant's TEVA Trademarks and the Complainant's website "www.tevapharm.com", so as to create a false association or affiliation with the Complainant.

Moreover, while the Disputed Domain Name resolves to an inactive website, it has been established that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Given the Complainant's well-reported involvement and reputation in the pharmaceutical industry, the composition of the Disputed Domain Name, such passive holding does not prevent a finding of bad faith.

Furthermore, taking into account that MX records on the server hosting the Disputed Domain Name have been activated suggests that the Disputed Domain Name may be actively used for email purposes, by means of which the Respondent could solicit personal data (including sensitive personal data) from deceived users of the Complainant's goods and services. Noting the composition of the Disputed Domain Name, the Panel is of the opinion that recipients of any such emails would be under the impression that the emails are associated with or endorsed by the Complainant.

The evidence as presented and the circumstances of the case indicate that the Respondent's aim in registering the Disputed Domain Name was to profit from or exploit the Complainant's TEVA Trademarks.

The Panel concludes that the Respondent has registered and is using 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 <tevaphama.com> be transferred to the Complainant.

/Mariia Koval/

Mariia Koval

Sole Panelist

Date: September 18, 2024