

ADMINISTRATIVE PANEL DECISION

Teva Pharmaceutical Industries Ltd. v. Perfect Privacy, LLC / Milen Radumilo
Case No. D2022-2510

1. The Parties

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

The Respondent is Perfect Privacy, LLC, United States of America ("United States") / Milen Radumilo, Romania.

2. The Domain Name and Registrar

The disputed domain name <txteva.com> is registered with SNAPNAMES, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 10, 2022. On July 11, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 13, 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 July 14, 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 on July 15, 2022.

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 July 15, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 4, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 8, 2022.

The Center appointed Andrew F. Christie as the sole panelist in this matter on September 2, 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 global pharmaceutical company whose mission is to be a global leader in generics, specialty medicines and biopharmaceuticals, to improve the lives of patients. The Complainant operates worldwide, with headquarters in Israel (where it was incorporated in 1944) and has a significant presence in the United States, Europe and many other markets around the world. The Complainant operates 40 finished dosage and packaging pharmaceutical plants in 27 countries, which manufacture solid dosage forms, sterile injectables, liquids, semi-solids, inhalers, transdermal patches and other medicinal products. As of December 31, 2021, the Complainant's workforce consisted of 37,537 employees across 58 countries around the world.

The Complainant is the owner of numerous trademark registrations around the world, including United States Trademark Registration No. 1567918 (registered on November 28, 1989), and European Union Trade Mark Registration No. 001192830 (registered on July 18, 2000), both for the word trademark TEVA.

The Complainant is the owner of numerous domain names containing the TEVA trademark, under various generic Top-Level Domains ("gTLDs") and country-code Top-Level Domains ("ccTLDs"), including <tevapharm.com> (created on June 14, 1996) and <tevapharm.us> (created on April 24, 2002), amongst others.

The disputed domain name was registered on May 26, 2022. The Complainant has provided a screenshot, taken on July 3, 2022, showing that the disputed domain name resolved to an inactive webpage. At the time of this decision, the disputed domain name resolves to a webpage containing what appear to be pay-per-click links for products and services unrelated to pharmaceuticals, and a "Buy this domain" link to a site at which the disputed domain name is offered for sale.

5. Parties' Contentions

A. Complainant

The Complainant made the following contentions to establish that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights. The disputed domain name incorporates the Complainant's registered TEVA word trademark in its entirety, and the trademark is clearly recognizable in the disputed domain name. The addition of the prefix "tx", which is widely understood to mean "therapy" or "therapeutics", does not in any way distinguish the disputed domain name from the trademark, or prevent a finding of confusing similarity. As the Complainant is primarily a pharmaceutical company, the words "therapy" or "therapeutics" have a clear correlation to the primary characteristics of the classes of services and goods designated by the Complainant's trademark and its industry. The addition of the gTLD ".com" should be disregarded as it is only required for technical reasons.

The Complainant made the following contentions to establish that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The disputed domain name is redirected to an inactive webpage, and is being held by a privacy protect service to hide the Respondent's identity. 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 its TEVA trademark in a domain name or otherwise. The TEVA trademark is significantly unique and used by the Complainant as a trademark for a vast array of its business activities and, consequently, it cannot be contended that the Respondent has with *bona fide* intent adopted the disputed domain name. As the disputed domain name gets redirected to a different IP address hosting an inactive website, the Respondent's aim in registering the disputed domain name was to sell it and not trade under it. The Respondent is not commonly known by the term "teva" or "txteva", and holds no association with the trademark and the disputed domain name. The Respondent has registered the disputed domain name with the *mala fide* of making illegitimate and illegal commercial gains. The fact that the disputed domain name falsely suggests affiliation with the Complainant will generally exclude any possible fair and noncommercial use. Given the distinctiveness, notoriety and premium quality of the Complainant's goods and services

under the TEVA trademark, there cannot be any actual or contemplated good faith use of the disputed domain name, as any use of it would invariably result in misleading diversion and taking unfair advantage of the Complainant's rights.

The Complainant made the following contentions to establish that 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 to gain revenue through redirections and through selling it. The Respondent registered the disputed domain name with an intention to attract Internet users to the redirected website for commercial gain and to create a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the website. The Respondent's deceptive use of the term "tx" in the disputed domain name, which can be understood to mean "therapy" or "therapeutics", and which directly correlates to the Complainant's business under the TEVA trademark, shows that the disputed domain name has been registered with the Complainant's TEVA trademark in mind and in bad faith. The inactivity of the disputed domain name and redirection corroborates the disinterest the Respondent has in pursuing any form of business through it. As the Complainant's TEVA trademark is a highly distinctive, coined trademark well-known throughout the world, the Respondent registered the disputed domain name in full knowledge of the Complainant's rights. The redirection of the disputed domain name to a third-party website is misrepresenting to consumers that it is affiliated with, or connected to, the Complainant. The Respondent has registered the disputed domain name with a privacy shield service to hide its identity and prevent the Complainant from contacting it. The disputed domain name has active MX records, suggesting it is likely that the Respondent intended to create email addresses at the disputed domain name and use them.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

Once the gTLD ".com" is disregarded (which is appropriate in this case), the disputed domain name consists of the Complainant's registered word trademark TEVA, preceded by the string "tx". The Complainant's trademark is clearly recognizable within the disputed domain name. The addition of the string "tx" does not avoid a finding of confusing similarity of the disputed domain name with the trademark.

Accordingly, 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

The Respondent is not a licensee of the Complainant, is not otherwise affiliated with the Complainant, and has not been authorized by the Complainant to use its TEVA trademark. The Respondent has not provided any evidence that it has been commonly known by, or has made a *bona fide* use of, the disputed domain name, or that it has, for any other reason, rights or legitimate interests in the disputed domain name. The evidence provided by the Complainant shows that there are active MX records for the disputed domain name, meaning it could be used in an email address. At the time of this decision, the disputed domain name resolves to a webpage containing what appear to be pay-per-click links for products and services unrelated to pharmaceuticals, and a "Buy this domain" link to a site at which the disputed domain name is offered for sale. Given the confusing similarity of the disputed domain name to the Complainant's trademark, the absence of any relationship between the Respondent and the Complainant, and the failure to avoid the implied false affiliation with the Complainant, the Respondent's use of the disputed domain name is neither a *bona fide* use nor a legitimate noncommercial or fair use.

The Complainant has put forward a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, and the Respondent has not rebutted this. Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

The disputed domain name was registered several decades after the Complainant first registered its TEVA trademark. It is inconceivable that the Respondent registered the disputed domain name ignorant of the existence of the Complainant's trademark, given the renown of the Complainant's trademark, and that the disputed domain name consists of the trademark merely preceded by the string "tx", which some Internet users will read as an abbreviation of the word "therapy" or "therapeutics", a term related to the Complainant's pharmaceutical business.

Given the Respondent's lack of rights or legitimate interests in the disputed domain name and the confusing similarity of the disputed domain name to the Complainant's trademark, any use of the disputed domain name by the Respondent almost certainly implies an affiliation with the Complainant that does not exist. The Respondent's registration of the disputed domain name in these circumstances is a bad faith registration.

Prior to the filing of the Complaint, it appears the disputed domain name was not being used. The non-use of the disputed domain name does not prevent a finding of bad faith where, as in this case, the Complainant's trademark has a high degree of distinctiveness, the Respondent has failed to provide any evidence of actual or contemplated good faith use (indeed, has failed to respond at all), and the Panel is not able to conceive of any good faith use to which the Respondent could put the disputed domain name. The Respondent's holding of the disputed domain name in these circumstances is a bad faith use. Furthermore, the Respondent is currently using the disputed domain name to resolve to a webpage containing what appear to be pay-per-click links for products and services unrelated to pharmaceuticals, and a "Buy this domain" link to a site at which the disputed domain name is offered for sale. The Respondent's use of the disputed domain name in this manner is also a bad faith use.

Accordingly, the Panel finds that the disputed domain name has been registered and is being used 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, <txteva.com>, be transferred to the Complainant.

/Andrew F. Christie/

Andrew F. Christie

Sole Panelist

Date: September 19, 2022