

ADMINISTRATIVE PANEL DECISION

TEVA Pharmaceutical Industries Limited v. Solomon sherif
Case No. D2023-0570

1. The Parties

The Complainant is TEVA Pharmaceutical Industries Limited, Israel, represented by SILKA AB, Sweden.

The Respondent is Solomon sherif, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <tevapha.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 7, 2023. On February 8, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 10, 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 (Domain by Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 10, 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 February 10, 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 February 15, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 7, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 8, 2023.

The Center appointed Emre Kerim Yardimci as the sole panelist in this matter on March 16, 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 a leading global pharmaceutical company that was established in 1901, currently being one of the world's largest generic medicines producers, with a portfolio of more than 1,000 molecules to produce a wide range of generic products. The Complainant is active in over 60 countries and employing approximately 45,000 people around the world.

The Complainant holds trademark registrations for TEVA and TEVAPHARM, such as the following:

- the United States of America Trademark Registration no. 1567918 for TEVA, filed on February 17, 1989 and registered on November 28, 1989, covering goods in the International Class 5; and
- the European Union Trademark Registration No. 018285645 for TEVAPHARM, filed on August 6, 2020 and registered on January 9, 2021, covering goods and services in the International Classes 5 and 44.

The Complainant also owns a number of domain names including <tevapharm.com> registered on June 14, 1996.

The disputed domain name was registered on January 10, 2023, and, according to the evidence provided in the Complaint, the disputed domain name is redirected to the Complainant's global website "www.tevapharm.com".

5. Parties' Contentions

A. Complainant

The Complainant asserts that the disputed domain name incorporates the Complainant's registered trademark TEVA completely, and is confusingly similar to its official domain name <tevapharm.com>.

The Complainant considers that the Respondent has no rights or legitimate interests in respect of the disputed domain name, mainly because the Complainant has neither licensed nor otherwise authorized the Respondent to use its marks or to apply for or use any domain name incorporating the trademark TEVA.

The Complainant states that disputed domain name is redirected to Complainant's global website. The Complainant further asserts that although the Respondent is not using the disputed domain name, any future use cannot be considered as a *bona fide* offering of goods and services.

Finally, in addressing the question of registration and use of the disputed domain name in bad faith, the Complainant observes that the Respondent is well aware of the Complainant's trademark considering that it has redirected the disputed domain name to the Complainant's global website.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, the Complainant must prove that:

- (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 interest in respect of the disputed domain name; and
- (iii) The disputed domain name has been registered in bad faith and is being used in bad faith.

A. Identical or Confusingly Similar

The Panel finds that the disputed domain name is confusingly similar for the purpose of the Policy to the Complainant's trademark TEVA.

The disputed domain name wholly incorporates the Complainant's distinctive trademark and the addition of the letters "pha" – which clearly makes reference to the term "pharma" – does not prevent a finding of confusing similarity. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8.

As regards the generic Top-Level Domain ".com", it is typically disregarded under the confusing similarity test.

For the reasons mentioned above, the Panel finds that the disputed domain name is confusingly similar to the Complainant's TEVA trademark. The Complainant has thus fulfilled paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The onus is upon the Complainant to make out a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name, and it is then for the Respondent to rebut this case.

The Panel accepts the Complainant's submissions that the Respondent does not appear to have been known by the disputed domain name, has not made demonstrable preparations to use the disputed domain name, and the Respondent is not making a legitimate noncommercial use of the disputed domain name.

The Respondent has not filed a Response. It has no consent from the Complainant to register any domain name incorporating the Complainant's trademark, it has not used the disputed domain names for a *bona fide* offering of goods or services, and the Respondent is not commonly known by the disputed domain name, nor is it making a noncommercial or fair use of the disputed domain name.

The Respondent's redirection of the disputed domain name is similar to a passive holding of the disputed domain name, and does not give rise to any rights or legitimate interests.

In the Panel's view, the Complainant has made out their *prima facie* case under this element of the Policy and the Respondent, who is in default, has failed to rebut this case.

In the circumstances of this case, and in view of the Panel's discussion above, the Panel finds that the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel accepts the Complainant's assertions that the trademark TEVA is a well-known trademark.

The incorporation of a well-known trademark into a domain name by a registrant having no plausible explanation for doing so may be, in and of itself, an indication of bad faith (*Veuve Clicquot Ponsardin, Maison Fondée en 1772 v. The Polygenix Group Co.*, WIPO Case No. [D2000-0163](#); *General Electric Company v. CPIC NET and Hussain Syed*, WIPO Case No. [D2001-0087](#); and *Microsoft Corporation v. Montrose Corporation*, WIPO Case No. [D2000-1568](#)).

The Respondent has registered the disputed domain name but has not put it to any material use except redirecting it to the Complainant's global website.

The Respondent's registration of the disputed domain name redirecting to the Complainant's website clearly constitutes bad faith. Therefore, the only reason for the registration of the disputed domain name by the Respondent must have been with bad faith intent to use it to exploit, for commercial gain, the Complainant's reputation.

The Panel notes the composition of the disputed domain name, and its redirection to the Complainant's website, and considers that the Respondent is likely attempting to build an appearance that the disputed domain name is connected or associated to the Complainant. The Respondent, by retaining control of the disputed domain name creates a real or implied threat hanging over the head of the Complainant. The Panel is not aware of any other use, and the Respondent could be considered to be holding the disputed domain name passively. It has long been generally held in UDRP decisions that the passive holding of a domain name that incorporates a well-known trademark, without any actual or contemplated good faith use, does not prevent a finding that the domain name is in use within the requirements of paragraph 4(a)(iii) of the Policy (*Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

Lastly, the Panel observed that the Respondent used a privacy shield. While the Respondent's use of a privacy service will not in itself constitute bad faith under the Policy, the Panel may still take it into account and draw adverse inferences under certain circumstances. The use of the privacy shield in this case together with other elements gives rise to the suspicion that the privacy shield was used to mask the identity of the underlying registrant, to give impression that the Complainant is behind the disputed domain name .

Given the Respondent's lack of participation in this proceeding, the lack of any credible good-faith use to which the confusingly similar disputed domain name could be put, and the Respondent's use of privacy service, the totality of circumstances supports an inference of bad faith. Therefore, in the view of cumulative circumstances, the Panel finds that the requirement of registration and use in bad faith is satisfied, according to the Policy, paragraph 4(a)(iii).

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 <tevapha.com> be transferred to the Complainant.

/Emre Kerim Yardimci/

Emre Kerim Yardimci

Sole Panelist

Date: April 7, 2023