

ADMINISTRATIVE PANEL DECISION

Teva Pharmaceutical Industries Ltd v. Oliver Savage
Case No. D2024-0213

1. The Parties

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

The Respondent is Oliver Savage, United States of America (USA).

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 18, 2024. On January 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 January 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 8, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 9, 2024.

The Center appointed Erica Aoki as the sole panelist in this matter on February 14, 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 is an internationally active and widely-known pharmaceutical company.

Since its establishment in 1901, the Complainant currently maintains a portfolio of approximately 3,600 products, and its medicines reach nearly 200 million people across 60 countries and six continents every day. The Complainant has over 53 manufacturing facilities in more than 33 countries, and some 37,000 employees.

The Complainant is the holder of numerous trademarks for TEVA, covering many jurisdictions around the world, inter alia:

- Israeli trademark registration no. 41075, registered on July 5, 1977;
- United States of America registration no. 1567918, registered on November 28, 1989;
- European Union registration no. 001192830, registered on July 18, 2000;
- International registration no. 1319184, registered on June 15, 2016;
- European Union registration no. 015135908, registered on July 28, 2016;
- United States of America registration no. 5984626, registered on February 11, 2020, and;
- Mexican registration no. 403326, registered on January 10, 1992.

The Complainant and its associated companies hold many domain names which encompass the TEVA mark, tailored for different jurisdictions around the world. For example, the Complainant uses domain names including its TEVA mark for its United States site, for Mexico, for the United Kingdom, and for Italy.

The disputed domain name was registered October 26, 2023. The disputed domain name does not resolve to an active website at point of submission of the Complaint. The Complainant is not aware of any other substantive use of the disputed domain name by the Respondent.

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 Complainant has accrued substantial goodwill and recognition in the TEVA brand, which was first registered as a trademark more than 40 years ago (and has been registered in Mexico for more than 30 years).

The Complainant's goods and services reach some 200 million consumers each day across 60 countries and six continents. The Complainant highlights that the TEVA mark is readily identifiable in publicly-accessible trademark databases (e.g., WIPO's Global Brand Database).

Also, the Complainant holds the domain names <tevamexico.com> and <tevamexico.com.mx> and uses the latter in connection with its official website for Mexico-based Internet users.

The Complainant contends that when users search for "tevamexico" on Google, the search engine assumes the user intended to type 'teva mexico' and presents results clearly pertaining to the Complainant. It is therefore evident that, notwithstanding any other considerations, the simplest degree of due diligence would have otherwise made a registrant of the disputed domain name aware of the Complainant's rights in the globally renowned TEVA trademark.

Therefore, the Complainant contends that the disputed domain name is confusingly similar to its trademarks and that the disputed domain name contains deceptive substitution of the visually similar letters “i” and “l”, constitutes clear evidence of the Respondent’s prior awareness and intention to target the Complainant by registering the disputed domain name.

B. Respondent

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

6. Discussion and Findings

The Complainant is required to establish the requirements specified under paragraph 4(a) of the Policy:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in respect of which the Complainant has rights; and
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been 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 a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The disputed domain name contains the Complainant’s TEVA mark entirely with the addition of the term “mexlco”, which is an intentional misspelling of the geographical term “mexico”. The Complainant’s trademark is easily recognizable within the disputed domain name. Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.7 and 1.8.

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.

The disputed domain name does not resolve to an active website at point of submission of the Complaint. The Complainant contends that it constitutes passive holding and, as such, the disputed domain name has not been used in connection with a bona fide offering of goods or services.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Complainant's TEVA trademarks are long established and well known, as outlined, the Complainant asserts that it is inconceivable that the Respondent did not have the Complainant firmly in mind when it registered the disputed domain name.

This is especially being visually similar, the letters 'i' and 'l' are also close in proximity on a Qwerty keyboard; the Respondent's choice of disputed domain name therefore also reflects its intention to, after registering, capture and divert Internet users attempting to reach the Complainant's offerings.

The Respondent has registered the disputed domain name to make a connection with the Complainant through the disputed domain name. The disputed domain name has been chosen to deliberately incorporate the entirety of the Complainant's trademarks. The Panel further notes that the disputed domain name <tevamexlco.com> is an intentionally misspelled version of the Complainant's domain name <tevamexico.com.mx>.

Also, given the deceptiveness of the disputed domain name's string and the implausibility that it could be used in any manner which would not take advantage of the Complainant, there is a significant risk that the Respondent may at some point use the disputed domain name to engage in email phishing activities.

The Panel finds that the Respondent registered the disputed domain name in bad faith.

As to the use, the disputed domain name at the point of submission the website associated with the disputed domain name is "passively held". The Complainant asserts that such passive holding of the disputed domain name constitutes bad faith.

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant's trademark, and the composition of the disputed domain name, the failure of the Respondent to participate in the proceedings, the provision of incomplete contact details by the Respondent when registering the disputed domain name, and finds that, in the circumstances of this case, the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

The Panel finds that the Complainant has established the third element 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 <tevamexlco.com> be transferred to the Complainant.

/Erica Aoki/

Erica Aoki

Sole Panelist

Date: February 28, 2024