Decision for dispute CAC-UDRP-101330

Case number	CAC-UDRP-101330
Time of filing	2016-11-02 10:19:28
Domain names	tevadrug.com

Case administrator

Name	Aneta Jelenová (Case admin)

Complainant

Organization	Teva Pharmaceutical Industries Ltd.

Complainant representative

Organization	Matkowsky Law

Respondent

Organization	Domain Protection LLC

OTHER LEGAL PROCEEDINGS

The panel is not aware of any other pending proceedings.

IDENTIFICATION OF RIGHTS

Complainant is proprietor of several trademarks for TEVA worldwide, among them the Community trademark TEVA, No. 001192830 in classes 3,5,10 applied for on June 2, 1999 and registered on July 18, 2000.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

Formed in 1976, through its predecessors in interest, the Complainant, together with its subsidiaries was first established in 1901 with its global headquarters in Israel. It began trading on the Tel Aviv Stock Exchange in 1951, on NASDAQ in 1987, and on the New York Stock Exchange in 2012.

Complainant and its subsidiaries is a global pharmaceutical company, committed to increasing access to high-quality healthcare by developing, producing and marketing affordable generic medicines and a focused portfolio of specialty medicines. It operates in pharmaceutical markets worldwide. Complainant and its subsidiaries are the leading generic drug companies in the U.S., and the leading generic pharmaceutical companies in Europe. Revenue of Complainant and its subsidiaries amounted to $19.7 billion in 2015. One of every seven generic prescriptions in the United States, and one of

every six generic prescriptions in Canada are filled with a product of Complainant and its subsidiaries. Approximately 2,500 packs of Complainant and its subsidiaries are dispensed in the EU every single minute.

Complainant is proprietor of several trademarks for TEVA worldwide, among them the Community trademark TEVA, No. 001192830 in classes 3,5,10 applied for on June 2, 1999 and registered on July 18, 2000.

Respondent is using the disputed domain name for a parking page with links to competitors of the Complainant.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the Domain Name is identical or confusingly similar to a trademark or service mark in which the complainant has rights (within the meaning of paragraph 4(a)(i)of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the Domain Name (within the meaning of paragraph 4(a)(ii)of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the Domain Name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii)of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

In order to succeed in its claim, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied:

(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 with respect to the disputed domain name; and

(iii) The disputed domain name has been registered and is being used in bad faith.

The Complainant has established the fact that it has valid trademark rights for “TEVA”. The disputed domain name is confusingly similar to the TEVA mark of the Complainant since the addition of the descriptive element „drug“ in the disputed domain name does not influence the overall character of the disputed domain name compared to the trademark of the Complainant.

The Panel therefore considers the disputed domain name to be confusingly similar to the trademark TEVA in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

The Respondent has no rights or legitimate interests in the disputed domain name, since the Respondent is not a licensee of the Complainant nor has the Complainant granted any permission or consent to the Respondent to use its trademarks or designations confusingly similar to its trademarks. Furthermore, the Respondent has no rights or legitimate interests in the

disputed domain name, since there is no indication that the Respondent is commonly known by the name “TEVA“ or that the Respondent is using the disputed domain name in connection with a bona fide offering of goods or services.

The Panel therefore finds that the Respondent does not have rights or legitimate interests in the disputed domain name within the meaning of paragraph 4(a)(ii)of the Policy.

The panel follows the assessment of the Panel in the WIPO Case D2010-0532 for <myTEVA.com> that “TEVA” is at least a „widely known“ trademark. Accordingly, the Respondent must have been aware of the Complainant and its trademarks when registering the disputed domain name. The Complainant has not authorized the Respondent to make use of a designation which is highly similar to its marks. This Panel does not see any conceivable legitimate use that could be made by the Respondent of this particular domain name without the Complainant’s authorization.

The circumstances of this case, in particular the advertising links to competitors in the field of the Complainant furthermore indicate that the Respondent registered and uses the disputed domain name primarily with the intention of attempting to attract, for commercial gain, Internet users to its potential website or other online locations, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of such website or location, or of a product or service on such website or location. The Panel therefore considers the disputed domain name to have been registered and used in bad faith in accordance with paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **TEVADRUG.COM**: Transferred

PANELLISTS

Name	**Dietrich Beier**

DATE OF PANEL DECISION 2016-12-13

Publish the Decision