

Decision for dispute CAC-UDRP-107025

Case number	CAC-UDRP-107025
Time of filing	2024-11-05 10:23:04
Domain names	tevapharmaceuticalsltd.site , tevapharmaceuticalsltd.shop, tevapharmaceuticalsltds.site

Case administrator

Name	Olga Dvořáková (Case admin)
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Complainant

Organization	Teva Pharmaceutical Industries Ltd
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Complainant representative

Organization	SILKA AB
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Respondent

Organization	Brendon Lyon (premiermidtownrealtys)
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OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain names.

IDENTIFICATION OF RIGHTS

The Complainant owns various trademark registrations for the designation "TEVA", including:

- EU trademark registration no. 001192830 "TEVA" (word), registered on July 18, 2000 (and duly renewed) for various goods in classes 3, 5, and 10; and
- US trademark registration no. 1567918 (US serial number 73781811) "TEVA" (word), registered on November 28, 1989 (and duly renewed) for goods in class 5.

The disputed domain names were registered on the following dates:

- <tevapharmaceuticalsltd.site>: October 10, 2024
- <tevapharmaceuticalsltd.shop>: October 10, 2024
- <tevapharmaceuticalsltds.site>: October 26, 2024

The Complainant's trademark registrations cited above therefore predate the registration of the disputed domain names.

FACTUAL BACKGROUND

The Complainant, established in 1901, is an internationally active and widely known pharmaceutical company. The Complainant maintains a portfolio of approximately 3,600 medicines, used by some 200 million people in 58 countries on six continents. The Complainant has over 50 manufacturing facilities and in the region of 37,000 employees.

The three disputed domain names are not used for active websites, but they are all set up with active MX records, indicating that they are being used to send and receive email. The Complainant has provided evidence that at least the domain names <tevapharmaceuticalsltd.site> and <tevapharmaceuticalsltds.site> have been used for email communications to impersonate the Complainant in an employee recruitment phishing scheme.

The Complainant contends that the Respondent is not affiliated with nor authorized by the Complainant in any way. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain names. The Complainant does not carry out any activity for, nor has any business with the Respondent. Neither license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark "TEVA", or to apply for registration of the disputed domain names.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain names should be transferred to it.

No administratively compliant Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names are 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 disputed domain names (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names have been registered and are 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

All disputed domain names are confusingly similar to the Complainant's distinctive trademark "TEVA". The additional elements "pharmaceuticals" (which is almost identical to the word "Pharmaceutical" in the Complainant's official company name) and "ltd" or "ltds" (which is identical or almost identical to the legal entity form "Ltd" in the Complainant's official company name) do not prevent, but rather support, the finding of confusing similarity.

The Panel further finds that the Complainant successfully submitted prima facie evidence that the Respondent has neither made any use of, or demonstrable preparations to use, the disputed domain names in connection with a bona fide offering of goods or services, nor is making a legitimate non-commercial or fair use of the disputed domain names, nor is commonly known under the disputed domain names. This prima facie evidence presented by the Complainant was not challenged by the Respondent.

The Panel also finds that the Complainant successfully submitted prima facie evidence that the Respondent was aware of the Complainant's rights in the well-established trademark "TEVA" when registering the disputed domain names. Again, this prima facie evidence was not challenged by the Respondent, which allows the conclusion that these disputed domain names were **registered in bad faith** (within the meaning of paragraph 4(a)(iii) of the Policy).

The disputed domain names <tevapharmaceuticalsltd.site> and <tevapharmaceuticalsltds.site> have been actively used for email communications to impersonate the Complainant in an employee recruitment phishing scheme, which is an obvious case of **bad faith use**.

As to the third disputed domain name <tevapharmaceuticalsltd.shop> for which the Complainant has not submitted evidence of phishing use, the remaining question is whether the Respondent has also used this domain name in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy). The Complainant's case regarding such bad faith use is that the Respondent is effectively engaged in "passive holding" of the disputed domain names within the terms originally established by Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003. The panel in Telstra noted that the question as to which circumstances of "passive holding" may constitute use in bad faith cannot be answered in the abstract. This question may only be determined on the basis of the particular facts of each case. A panel should give close attention to all the circumstances of the Respondent's behaviour, and a remedy can be obtained under the Policy only if those circumstances show that the Respondent's passive holding amounts to acting in bad faith (cf. Sanofi-aventis v. Gerard Scarretta, WIPO Case No. D2009-0229; Mount Gay Distilleries Limited v. shan gai gong zuo shi, CAC Case No. 100707; RueDuCommerce v. TOPNET, CAC Case No. 100617; INFRONT MOTOR SPORTS LICENCE S.r.l. v. VICTOR LEE, CAC Case No. 100385).

With this approach in mind, the Panel has identified the following circumstances as material to this issue in the present case:

- The Complainant's trademark is widely known and has a strong reputation;
- the Respondent has provided no evidence whatsoever of any actual or contemplated good faith use of either of the disputed domain names, nor can the Panel conceive of any such good faith use;
- the Respondent has actively abused the very similar domain names <tevapharmaceuticalsltd.site> and <tevapharmaceuticalsltds.site> for a phishing scam; and
- the configured MX servers for <tevapharmaceuticalsltd.shop> indicate that there may in fact be some form of active email use of this disputed domain name as well, although further details of such potential email use remain unknown as the Respondent has not provided any information in this regard.

In light of the Respondent's overall conduct, the Panel cannot conceive of any plausible actual or contemplated active use of the disputed domain name <tevapharmaceuticalsltd.shop> by the Respondent that would not be unlawful. The Panel therefore finds that the Respondent's passive holding of this domain name also constitutes use in bad faith. All of the requirements of paragraph 4(a)(iii) of the Policy are therefore satisfied.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **tevapharmaceuticalsltd.site** : Transferred
2. **tevapharmaceuticalsltd.shop**: Transferred
3. **tevapharmaceuticalsltds.site**: Transferred

PANELLISTS

Name	Thomas Schafft
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DATE OF PANEL DECISION 2024-12-16

Publish the Decision
