Decision for dispute CAC-UDRP-107080

Case number	CAC-UDRP-107080
Time of filing	2024-11-21 11:12:32
Domain names	tevapharmaceuticalindustriesltd.site, tevapharmaceuticalindustriesltds.site, tevapharmaceuticalsltds.website

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Teva Pharmaceutical Industries Ltd

Complainant representative

Organization	SILKA AB

Respondents

Organization	premiermidtownrealtys
Name	Wyatt Mccage

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 is the proprietor of numerous trademark registrations, including the following:

Trademark	Origin	Registration Number	Registration Date	Class(es) Covered
TEVA	Israel	41075	05/07/1977	5
TEVA	United States	1567918	28/11/1989	5
TEVA	European Union	001192830	18/07/2000	3, 5, 10

TEVA (With design elements)	International	1319184	15/06/2016	5, 10, 42
TEVA (With design elements)	European Union	015135908	28/07/2016	1, 3, 5, 9, 10, 16, 35, 42, 44

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, reaching some 200 million people across 58 markets and six continents every day. The Complainant has over 50 manufacturing facilities and in the region of 37,000 employees. The Complainant is repeatedly featured in lists collating the world's top generic drug manufacturers.

The Complainant and its affiliated companies hold many domain names which encompass the TEVA mark, tailored for different jurisdictions around the world. For example, the Complainant uses <tevausa.com> in connection with its United States site, <tevauk.com> for the United Kingdom, and <tevaitalia.it> for Italy. The Complainant's domain name portfolio also includes, in addition to <tevapharm.com>, <tevapharma.com> (registered on 18 December 2000) and <tevapharm.us> (registered on 24 April 2002). The Complainant has been successful in numerous domain name dispute proceedings involving the TEVA brand.

The Complainant has requested that the Respondents be consolidated into one single Complaint. According to the Complainant the disputed domain names are, despite the differing respondent identities disclosed by the registrar, subject to common control. According to the Complainant this is apparent through the following:

- The disputed domain names all involve very similar compositions. In particular, each domain name consists of the Complainant's TEVA mark and either the singular or plural form of the terms 'pharmaceutical' and 'ltd'. The domain names' second levels each reflect an attempt to impersonate the Complainant. The domain names also involve similar gTLD extensions (i.e., '.site' and '.website', which refer to the same thing).
- The disputed domain names have been registered only several days apart from one another, and with the same registrar (Hostinger Operations, UAB).
- The disputed domain names have been used to resolve to the same registrar parking page.
- Each of the disputed domain names has been configured with multiple mail exchange (MX) records.
- One of the registrant identities ('Brendon Lyon' / 'premiermidtownrealtys') has, as reflected in the decision Teva Pharmaceutical Industries Ltd. v. Brendon Lyon, premiermidtownrealtys and Webpadi Channel, zzm, WIPO Case No. D2024-3435, been a respondent of other highly similar domain names to those in the present proceeding. These disputed domain names include, notably, <tevapharmaceuticals.website>. Except for the omission of 'ltds', the latter domain name exactly matches (both at the second- and top-level) the currently disputed domain name <tevapharmaceuticalsltds.website>, which is associated with the registrant identity 'Wyatt Mccage'.

In summary, given the composition of the disputed domain names, timing of the disputed domain names' registrations, choice of registrar, and several other considerations including prior conduct associated with one of the disclosed registrant identities, the Complainant submits that the disputed domain names are controlled by the same underlying person/entity. Additionally, the Complainant notes the use of at least one of the disputed domain names to engage in fraudulent email phishing activity and, therefore, the increased likelihood that some/all of the disclosed registrant details do not reflect the actual identity or location of the disputed domain names' underlying controller.

The Complainant further submits that the consolidation of the Respondents would be fair and equitable to the Parties. With the disputed domain names being subject to common control, no good purpose would be served by requiring the Complainant to refile, at additional time and expense, a separate complaint for one or more of the 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

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 Complainant has requested that the Respondents be consolidated into one single Complaint. This request is granted in accordance with Paragraphs 10(e) and 3(c) of the Rules.

The Panel is satisfied that the disputed domain names are subject to common control for the following reasons:

- The domain names all involve very similar compositions. In particular, each domain name consists of the Complainant's TEVA mark and either the singular or plural form of the terms 'pharmaceutical' and 'ltd'. The domain names' second levels each reflect an attempt to impersonate the Complainant. The domain names also involve similar gTLD extensions (i.e., '.site' and '.website', which refer to the same thing).
- The domain names have been registered only several days apart from one another, and with the same registrar (Hostinger Operations, UAB).
- The domain names have been used to resolve to the same registrar parking page.
- Each of the domain names has been configured with multiple mail exchange (MX) records.
- One of the registrant identities ('Brendon Lyon' / 'premiermidtownrealtys') has, as reflected in the decision Teva Pharmaceutical Industries Ltd. v. Brendon Lyon, premiermidtownrealtys and Webpadi Channel, zzm, WIPO Case No. D2024-3435, been a respondent of other highly similar domain names to those in the present proceeding. These domain names include, notably, <tevapharmaceuticals.website>. Except for the omission of 'ltds', the latter domain name exactly matches (both at the second- and top-level) the currently disputed domain name <tevapharmaceuticalsltds.website>, which is associated with the registrant identity 'Wyatt Mccage'.

Given the composition of the domain names, timing of the domain names' registrations, choice of registrar, and several other considerations including prior conduct associated with one of the disclosed registrant identities, it is accepted that the domain names are controlled by the same underlying person/entity. The use of at least one of the disputed domain names to engage in fraudulent email phishing activities increase the likelihood that the disclosed registrant details do not reflect the actual identity or location of the domain names' underlying controller.

There is no reason to find that the consolidation of the Respondents would be unfair and inequitable to the Parties. With the disputed domain names being subject to common control, no good purpose would be served by requiring the Complainant to refile, at additional time and expense, a separate complaint for one or more of the disputed domain names.

In light of the above, the Complainant requested that the disputed domain names and the named Respondents be consolidated in a single UDRP proceeding. The Respondent has not in any way challenged the prima facie evidence provided by the Complainant as no administratively compliant Response was filed. The evidence provided by the Complainant, including that of the same registrar, the same structure of the disputed domain names, are sufficient to convince the Panel of the existence of common control over these disputed domain names. For that reason, the Panel finds that the consolidation of the dispute to be equitable and procedurally efficient.

PRINCIPAL REASONS FOR THE DECISION

In view of the Respondent's failure to submit a response, the Panel shall decide this matter on the basis of the Complainant's undisputed representations pursuant to paragraphs 5(f), 14(a) and 15(a) of the Rules and draw such inferences it considers appropriate pursuant to paragraph 14(b) of the Rules. The Panel is entitled to accept all reasonable allegations and inferences set forth in the Complaint as true unless the evidence is clearly contradictory.

According to Paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements to obtain an order that the disputed domain name should be transferred or cancelled:

(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 in respect of the disputed domain name; and

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

The Panel has examined the evidence available to it and has come to the following conclusion concerning the satisfaction of the three elements of paragraph 4(a) of the Policy in these proceedings:

RIGHTS

The Complainant has established rights in the name TEVA. The disputed domain names <tevapharmaceuticalindustriesltd.site>, <tevapharmaceuticalindustriesltds.site> and tevapharmaceuticalsltds.website> are found to be confusingly similar to the Complainant's Trademarks and company name. This finding is based on the settled practice in evaluating the existence of a likelihood of confusion of
a) disregarding the top-level suffix in the domain names (i.e. ".site" and "website") in the comparison, and
b) finding that (1) the addition of generic or generally non-distinctive elements such as the very goods for which the earlier right is protected and in use in many countries around the world ("pharmaceuticals" or "pharmaceutical industries") to the protected trademark and (2) the simple combination of a trademark and a generic type of a legal company (in this case "ltd" or "ltds" for "limited liability") would by no means be considered sufficient to distinguish a domain name from a trademark.

The disputed domain names are therefore confusingly similar to the earlier rights in the name TEVA. The Panel therefore comes to the conclusion that the Complainant has satisfied the requirement under paragraph 4(a)(i) of the UDRP.

NO RIGHTS OR LEGITIMATE INTERESTS

The onus to make out a prima facie case that the Respondent lacks rights or legitimate interests is placed on the Complainant. However, once such a prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the disputed domain names. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the UDRP (see e.g. WIPO case no. D2003-0455, Croatia Airlines d.d. v. Modern Empire Internet Ltd.).

The Respondent has no rights or legitimate interests in the disputed domain names. The Complainant has not authorized the use of the TEVA trademark and the Respondent is not commonly known under the disputed domain names.

Given the well-known nature of the TEVA trademarks and the Respondent's use of the Complainant's name and corporate logo in an effort to imitate the Complainant's human resources department by sending emails from an email address connected to the disputed domain name <tevapharmaceuticalsltds.website> , it is more than likely that the Respondent, being aware of the goodwill of the Complainant's trademarks, registered the disputed domain names targeting these trademarks in an attempt to exploit the goodwill of the Complainant by attracting Internet users and confusing them to believe that the websites connected to the disputed domain names offer the services of an entity that is affiliated to the Complainant. The Respondent actively chose the confusing disputed domain names and is clearly seeking to impersonate the Complainant.

In summary, the Panel concludes that the Respondent did not establish any rights or legitimate interest in the disputed domain names (within the meaning of paragraph 4(a)(ii) of the Policy). The Complainant has therefore also satisfied the requirement under paragraph 4(a)(ii) of the Policy.

BAD FAITH

The Panel finds that the Complainant has established that the disputed domain names were registered by the Respondent and are being used by the Respondent in bad faith. For this purpose, the Complainant has successfully put forward prima facie evidence that the Respondent has not made use, or demonstrable preparations to use, of either the disputed domain names in connection with a bona fide offering of goods or services, or of making a legitimate non-commercial or fair use of the disputed domain names. The Respondent is also in no way commonly known under the disputed domain names. This prima facie evidence was not challenged by the Respondent.

The Complainant's trademark TEVA is distinctive and well known around the world. The fact that the Respondent has registered domain names that are confusingly similar to the earlier rights indicates that the Respondent had knowledge of the Complainant's trademarks at the time of registration of the disputed domain names. No other reason for registering a combination of the trademark of the Complainant together with generic terms related to the very product manufactured and marketed by the Complainant appears even remotely feasible. Any, even the most basic Google search in respect of the word TEVA on its own and even more so of the combination of TEVA and PHARMACEUTICALS would have yielded obvious references to the Complainant.

The disputed domain names are not used for any bona fide offerings. Instead, they resolve to an identical parking page.

Additionally, at least one of the disputed domain names (<tevapharmaceuticalsltds.website>) has been used for phishing. The Respondent has used this disputed domain name to impersonate the Complainant in email correspondence, purporting to represent an 'HR Operations Manager' of the Complainant). In doing so, the Respondent used the email address sarah_norrishr@tevapharmaceuticalsltds.website to send an email which offers the recipient (a misled job applicant) a position working with the Complainant. The email was signed off in the Complainant's name and featured a 'Contract Offer Letter' attachment which encompasses the Complainant's name and logo (which is visible on the Complainant's official site). Use of a domain name for, among other things, phishing, impersonation, or other types of fraud can never confer rights or legitimate interests on a respondent.

Based on the above, the Panel is convinced that the disputed domain names were registered in full awareness of the Complainant's earlier rights and are potentially being used for phishing purposes. The Panel therefore concludes that the Respondent has

registered and is using the disputed domain names in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy). The Complainant has therefore also satisfied the requirement under 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. **tevapharmaceuticalindustriesltd.site**: Transferred
2. **tevapharmaceuticalindustriesltds.site**: Transferred
3. **tevapharmaceuticalsltds.website**: Transferred

PANELLISTS

Name	**Udo Pfleghar B.A. (Melb.)**

DATE OF PANEL DECISION 2024-12-27

Publish the Decision