Decision for dispute CAC-UDRP-107204

Case number	CAC-UDRP-107204
Time of filing	2024-12-23 11:04:33
Domain names	tevapharmaceuticalindustriesltd.info

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	Teva Pharmaceutical Industries Ltd

Complainant representative

Organization	SILKA AB

Respondent

Name	mersal Markt

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 name.

IDENTIFICATION OF RIGHTS

The Complainant has provided evidence of ownership of the numerous trademarks, including:

- Israeli trademark TEVA registered on 5 July 1977 under No. 41075, duly renewed and designating goods in international class 05;
- European trademark TEVA registered on 18 July 2000 under No. 1192830, duly renewed and designating goods in international classes 03, 05 and 10.

FACTUAL BACKGROUND

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

The Complainant is an international pharmaceutical group established in 1901. It provides over 3,500 medicines reaching hundreds of millions of people daily across 58 markets, and employs over 37,000 staff worldwide.

The Complainant also owns an important domain names portfolio, including the domain name <tevapharm.com> registered in 1996.

The disputed domain name <tevapharmaceuticalindustriesltd.info> was registered on December 15, 2024 and resolves to an active webpage composed of a website template. MX records are configured on the domain name.

PARTIES CONTENTIONS

A. THE DISPUTED DOMAIN NAME IS IDENTICAL OR CONFUSINGLY SIMILAR

The Complainant states that the disputed domain name is confusingly similar to its trademark TEVA. The only difference lies in the addition of the generic terms “pharmaceutical”, “industries” and “ltd” to trademark TEVA in the domain name.

It does not change the overall impression of the designation as being connected to the Complainant’s trademark TEVA. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and the domain names associated.

Furthermore, the Complainant contends that the addition of the gTLD “.info” does not change the overall impression of the designation as being connected to the Complainant’s trademark. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and its domain names associated.

B. RESPONDENT HAS NO RIGHTS OR LEGITIMATE INTEREST IN RESPECT OF THE DISPUTED DOMAIN NAME

The Complainant has not found that the Respondent is commonly known by the disputed domain name or that it has legitimate interest over the disputed domain name.

From the Complainant’s perspective, the Respondent deliberately chose to incorporate the well-known, distinctive trademark TEVA in the disputed domain name, very likely with the intention to attract Internet traffic by benefiting from the Complainant’s worldwide renown.

The Complainant equally submits that the Respondent is not using the domain name in connection with a bona fide offering of goods or services.

Thus, in accordance with the foregoing, the Complainant contends that the Respondent has no right or legitimate interest in respect of the disputed domain name.

C. THE DISPUTED DOMAIN NAME WAS REGISTERED AND IS BEING USED IN BAD FAITH

i. THE DISPUTED DOMAIN NAME WAS REGISTERED IN BAD FAITH

The Complainant contends that the disputed domain name is confusingly similar to its distinctive trademark TEVA.

The Complainant’s trademark TEVA is widely known. Past panels have confirmed the notoriety of the trademark TEVA.

Given the distinctiveness of the Complainant's trademark and reputation and the fact exposed above, it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's trademark. Moreover, the Complainant states that the use of the terms “pharmaceutical”, “industries” and “ltd” in the domain name, thereby reproducing the Complainant’s legal name in the domain name.

The Complainant equally submits that there is no plausible explanation for the registration of the disputed domain name in good faith by the Respondent. Moreover, the fact that MX records are linked to the domain name is a further element of the Respondent's bad faith.

Thus, the Complainant contends that the Respondent has registered the disputed domain name and is using it in bad faith.

RESPONDENT

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed 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 disputed 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 disputed 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

Notwithstanding the fact that no Response has been filed, the Panel shall consider the issues present in the case based on the statements and documents submitted by the Complainant.

Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following elements:

i. that the disputed domain name is identical or confusingly similar to a trademark or service mark in 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 was registered and is being used in bad faith.

A. Identical or Confusingly Similar

A complainant must establish that it has a trademark or service mark and that the disputed domain name is identical or confusingly similar to that trademark or service mark for the complainant to succeed.

The Complainant, Teva Pharmaceutical Industries Ltd is a multinational pharmaceutical company developing and selling medical treatments and drugs worldwide. The Complainant has provided evidence of ownership of the mark "TEVA".

As regards the question of identity or confusing similarity for the purpose of the Policy, it requires a comparison of the disputed domain name with the trademarks in which the complainant holds rights. According to section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), "this test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name".

Also, according to section 1.7 of the WIPO Overview 3.0, "in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing".

The disputed domain name wholly incorporates the Complainant's trademarks "TEA" in addition to the generic terms "pharmaceutical", "industries" and "ltd". This addition does not prevent a finding of confusing similarity with the Complainant's trademark. The fact that a domain name wholly incorporates a Complainant's trademark is sufficient to establish identity or confusing similarity for the purpose of the Policy, despite the addition of other words to such mark.

It is well accepted by UDRP panels that a generic Top-Level Domain ("gTLD"), such as ".info", is typically ignored when assessing whether a domain name is identical or confusingly similar to a trademark.

This Panel concludes that the disputed domain name is confusingly similar to the Complainant's trademark and therefore finds that the requirement of paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

Under paragraph 4(c) of the Policy, any of the following circumstances, if found by the Panel, may demonstrate the respondent's rights or legitimate interests in the disputed domain name:

i. before any notice to it of the dispute, the respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a bona fide offering of goods or services; or
ii. the respondent has been commonly known by the disputed domain name, even if it has acquired no trademark or service mark rights; or
iii. the respondent is making a legitimate non-commercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The consensus view of UDRP panels on the burden of proof under paragraph 4(a)(ii) of the Policy is summarized in section 2.1 of the WIPO Overview 3.0, which states: "[…] 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. If the Respondent fails to come forward with such relevant evidence, the Complainant is deemed to have satisfied the second element."

The evidence on record does not show that the Respondent was commonly known, as an individual or an organization, by the disputed domain name.

The Panel also finds, in the absence of a rebuttal from the Respondent, that the Respondent uses the Complainant's trademarks in the disputed domain name without authorization from the Complainant.

Equally, the Panel accepts that the Respondent has not made a legitimate non-commercial or fair use of the disputed domain name.

Therefore, the Panel concludes that the Respondent has no right or legitimate interests in the disputed domain name and therefore finds that the requirement of paragraph 4(a)(ii) of the Policy is satisfied.

C. Registration and Use in Bad faith

For the purpose of Paragraph 4(a) (iii) of the Policy, the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of the domain name in bad faith:

i. circumstances indicating that the holder has registered or has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of the holders documented out-of-pocket costs directly related to the domain name; or
ii. the holder has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the holder has engaged in a pattern of such conduct; or
iii. the holder has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
iv. by using the domain name, the holder has intentionally attempted to attract, for commercial gain, Internet users to the holder's website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on the holder's website or location.

The TEVA trademark enjoys a long-standing continuous reputation worldwide. Such reputation, coupled with the evidence on record, shows that the Respondent was certainly aware of the existence of the Complainant and of the rights of the Complainant on the trademark. The Panel finds that the Respondent, by registering and using the disputed domain name has intentionally attracted internet users by creating a likelihood of confusion with the Complainant's trademark.

Finally, the Panel agrees that the current use of the disputed domain name does not prevent a finding of bad faith use. By connecting the disputed domain name to MX records which allow the sending and reception of e-mails, there is a high likelihood that the Respondent intended to use the disputed domain name in relation to a phishing scheme.

The Panel concludes that the Respondent has registered and is using the disputed domain name in bad faith, and therefore finds that the requirements of paragraph 4(a)(iii) of the Policy is satisfied.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **tevapharmaceuticalindustriesltd.info**: Transferred

PANELLISTS

Name	**Arthur Fouré**

DATE OF PANEL DECISION 2025-02-14

Publish the Decision