Decision for dispute CAC-UDRP-107465

Case number	CAC-UDRP-107465
Time of filing	2025-04-07 12:01:50
Domain names	tevaethiopharma.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Teva Pharmaceutical Industries Ltd.

Complainant representative

Organization	SILKA AB

Respondent

Name	Ibrahim Ghazali

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 is the owner of a number of trademark registrations for “TEVA” (the “ TEVA trademark”), including the following representative registrations:

− the United States trademark TEVA with registration No. 1567918, registered on 28 November 1989 for goods in International Class 5; and

− the European Union trademark TEVA with registration No. 001192830, registered on 18 July 2000 for goods in International Classes 3, 5 and 10.

The Complainant is also the owner of the French trademark TEVA PHARMA with registration No. 3256982, registered on 14 November 2003 for goods and services in International Class 5 (the “TEVA PHARMA trademark”).

FACTUAL BACKGROUND

The Complainant was established in 1901. It is an internationally active pharmaceutical company and maintains a portfolio of about 3500 products, including generics, specialty and over the counter medicines. The Complainant has 48 manufacturing sites and about 37000 employees in 57 markets.

The Complainant operates the domain names <tevapharm.com> registered in 1996, <tevapharma.com>, registered in 2000, and <tevapharm.us>, registered in 2002.

The disputed domain name was registered on February 12, 2025. It resolves to a parked webpage with the text: “Welcome to TEVA PHARMA,” ”Coming Soon,” and “We are Launching our New Website. We’re working hard to give you the best experience! Please come back soon”.

PARTIES CONTENTIONS

COMPLAINANT

The Complainant states that the disputed domain name is confusingly similar to its TEVA and TEVA PHARMA trademarks, which it includes in their entirety, and the two elements of the TEVA PHARMA trademark are separated by the insertion of the element “ethio”. According to the Complainant, the TEVA and TEVA PHARMA trademarks form the dominant element of the disputed domain name and are clearly recognisable in it.

The Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It points out that the Respondent has no trademark rights for “tevaethiopharma” or any similar term, and it is not commonly known under it. The Complainant adds that the Respondent is not affiliated with the Complainant and has not been licensed to use the TEVA and TEVA PHARMA trademarks.

The Complainant further submits that the Respondent has not used the disputed domain name in connection with a bona fide offering of goods or services and has not carried out any legitimate noncommercial or fair use of it. The Complainant notes that the disputed domain name resolves to a parked webpage stating “Coming Soon” under the heading “Welcome to TEVA PHARMA”.

The Complainant maintains that the disputed domain name carries a high risk of implied affiliation with the Complainant, because the combination of the TEVA and TEVA PHARMA trademarks with the term “ethio”, which could be viewed as a short form for “Ethiopia”, produces a misleading impression that the disputed domain name represents an entity in Ethiopia that has been authorized by or is affiliated with the Complainant.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. It maintains that the TEVA trademark is distinctive and enjoys a worldwide reputation, considering that products marked with it reach about 200 million people each day. The Complainant adds that the TEVA and TEVA PHARMA trademarks are easily identifiable in publicly accessible trademark databases, and a basic Google search for “tevaethiopharma” delivers results pertaining to the Complainant’s TEVA brand. According to the Complainant, a basic due diligence review would have made any prospective registrant of the disputed domain name aware of the Complainant’s rights in the globally-renowned TEVA brand.

The Complainant maintains that the Respondent’s specific awareness of and intention to target the Complainant is apparent from its subsequent parking of the disputed domain name with a “Coming Soon” webpage that directly references the TEVA PHARMA trademark in its heading (“Welcome to TEVA PHARMA”). According to the Complainant, it is inconceivable that the Respondent could have registered the disputed domain name without the specific intention of targeting the Complainant.

The Complainant maintains that, given the prominence of the TEVA and TEVA PHARM trademarks in the disputed domain name and the risk of implied affiliation inherent to its composition, there is no conceivable good faith use to which the disputed domain name could be put by the Respondent without the consent of the Complainant.

The Complainant lastly notes that the disputed domain name has been configured with MX (Mail Exchange) records. According to the Complainant, the configuration of MX records to the disputed domain name creates a risk that the Respondent may use it to engage in some form of phishing activities, and that Internet users receiving emails from an address at the disputed domain name may be misled to believe that they are receiving correspondence from an entity representing or associated with the Complainant, and may provide their sensitive information.

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 Respondent accessed the online platform and requested additional 4 calendar days to provide a response under Paragraph 5(b) of the UDRP Rules. The deadline was prolonged accordingly but the Respondent did not submit any response and no further communication from the Respondent was received by the Provider.

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

Pursuant to the Policy, paragraph 4(a), a complainant must prove each of the following to justify the transfer of a domain name:

(i) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;

(ii) the respondent has no rights or legitimate interests in respect of the domain name; and

(iii) the domain name was registered and is being used in bad faith.

In this case, the CAC has employed the required measures to achieve actual notice of the Complaint to the Respondent, and the Respondent was given a fair opportunity to present its case.

By the Rules, paragraph 5(c)(i), it is expected of a respondent to: "[r]espond specifically to the statements and allegations contained in the complaint and include any and all bases for the Respondent (domain name holder) to retain registration and use of the disputed domain name …"

In this proceeding, the Respondent has not used the opportunity provided to it under the Rules and has not submitted a substantive Response addressing the contentions of the Complainant and the evidence submitted by it even within the extended time limit to do so that it requested.

Identical or confusingly similar

The Complainant has provided evidence and has thus established its rights in the TEVA and TEVA PHARMA trademarks.

The Panel notes that a common practice has emerged under the Policy to disregard in appropriate circumstances the general Top-Level Domain ("gTLD") section of domain names for the purposes of the comparison under the Policy, paragraph 4(a)(i). The Panel sees no reason not to follow the same approach here, so it will disregard the ".com" gTLD section of the disputed domain name.

The relevant part of the disputed domain name is therefore the sequence "tevaethiopharma", which incorporates the word elements of the TEVA and TEVA PHARMA trademarks in combination with the element "ethio" placed between "teva" and "pharma". The TEVA and TEVA PHARMA trademarks are easily recognizable in the disputed domain name. As discussed in section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (the "WIPO Overview 3.0"), 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. The nature of such additional terms may however bear on the assessment of the second and third elements.

Taking the above into account, the Panel finds that the disputed domain name is confusingly similar to the TEVA and TEVA PHARMA trademarks in which the Complainant has rights.

Rights and legitimate interests

While 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 often-impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name, because it is not known under the disputed domain name, is not affiliated with the Complainant or authorized by the same to use its trademark, and has no business with the Complainant. The Complainant adds that the MX servers are configured for the disputed domain name, so it may be actively used for e-mail purposes. Thus, 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 submitted a Response and has not provided an explanation of the reasons why it has registered the disputed domain name and how it intends to use it.

In the Panel's view, the circumstances of this case do not support a finding that the Respondent has rights and legitimate interests in the disputed domain name. It is confusingly similar to the distinctive TEVA and TEVA PHARMA trademarks in combination with the element "ethio", which Internet users may understand as an abbreviation for "Ethiopia", and this may well create an impression in them that the disputed domain name is the Complainant's online location for Ethiopia. Such an impression would only be strengthened by the text on the webpage linked to the disputed domain name, which states "Welcome to TEVA PHARMA". In the lack of any arguments or evidence to the contrary, the above leads the Panel to the conclusion that it is more likely than not that the Respondent, being aware of the goodwill of the Complainant's TEVA and TEVA PHARMA trademarks, has registered the disputed domain name targeting these trademarks in an attempt to exploit their goodwill by confusing Internet users that the disputed domain name is affiliated to the Complainant or that correspondence from an email account at the disputed domain name originates from the Complainant. The Panel does not regard such conduct as giving rise to rights or legitimate interests in the disputed domain name.

Therefore, the Panel finds that the Respondent does not have rights or legitimate interests in the disputed domain name.

Bad faith

Paragraph 4(b) of the Policy lists four illustrative alternative circumstances that shall be evidence of the registration and use of a domain name in bad faith by a respondent, namely:

"(i) circumstances indicating that you have registered or you have 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 your documented out-of-pocket costs directly related to the domain name; or

(ii) you have 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 you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your 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 your website or location."

The registration of the distinctive TEVA and TEVA PHARMA trademarks predates by many years the registration of the disputed domain name. It is confusingly similar to these trademarks and appears as representing an official online location of the Complainant for Ethiopia, which appearance is confirmed by the content of the associated webpage, and the Respondent has not provided any plausible explanation of its choice of a domain name and of its plans how to use it. The Panel is therefore of the view that the Respondent is more likely to have registered the disputed domain name with knowledge of the Complainant's trademarks and with the intention of taking advantage of their goodwill.

The disputed domain name does not appear to be actively used, but the Panel finds that its non-use does not prevent a finding of bad faith use 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 implausibility of any active use of the disputed domain name by the Respondent that would not be illegitimate. WIPO Overview 3.0, section 3.3.

Having reviewed the available record, the Panel notes the reputation of the Complainant and its distinctive TEVA and TEVA PHARMA trademarks, the fact that Respondent has not submitted a Response, the composition of the disputed domain name, which incorporates the Complainant's trademarks entirely and appears as denoting the Complainant's official online location for Ethiopia, the use of the Complainant's trademarks in the "Coming soon" webpage under the disputed domain name, which creates an additional risk of confusion of Internet users as to the affiliation, endorsement or sponsorship of the disputed domain name by the Complainant, and the fact that MX records have been activated for it, so that recipients of e-mail communications from email accounts at the disputed domain name may wrongly believe them to be originating from the Complainant.

Taking all the above into account, the Panel finds that in the circumstances of this case it is not possible to conceive of any plausible actual or contemplated active use of the disputed domain name by the Respondent that would not be illegitimate. The Panel therefore concludes that the Respondent's passive holding of the disputed domain name amounts to use in bad faith under

the Policy.

This satisfies the Panel that the disputed domain name has been registered and used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **tevaethiopharma.com**: Transferred

PANELLISTS

Name	**Assen Alexiev**

DATE OF PANEL DECISION 2025-05-07

Publish the Decision