

Decision for dispute CAC-UDRP-104336

Case number CAC-UDRP-104336

Time of filing 2022-02-09 10:10:16

Domain names servierlabs.com

Case administrator

Organization Denisa Bilík (CAC) (Case admin)

Complainant

Organization LES LABORATOIRES SERVIER

Complainant representative

Organization IP TWINS

Respondent

Organization Host737

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 owns numerous registered trade marks incorporating the name SERVIER world-wide, including the EU trade mark SERVIER, registration number 004279171, first registered on 7 February 2005, in international classes 05, 35, 41, 42 and 44; the International trade mark SERVIER, registration number 814214, first registered on 8 August 2003, in international classes 05, 35, 41, 42 and 44; the International trade mark SERVIER, registration number 571972, first registered on 29 May 1991, in international classes 01, 03 and 05; and the International trade mark SERVIER, registration number 549079, first registered on 19 January 1990, in international classes 01, 03, 05, 10, 16, 35, 41 and 42.

Furthermore, the Complainant owns numerous top-level and country-level domain names incorporating the trade mark SERVIER, including <servier.com>, registered on 28 December 1998; and <servier.fr>, registered on 17 December 2004, which are connected to the Complainant's official websites.

FACTUAL BACKGROUND

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

The Complainant is Les Laboratoires Servier. The Servier Group was founded in 1954 by Dr Jacques Servier and is today the largest independent French pharmaceutical company, represented in 150 countries worldwide.

The disputed domain name <servierlabs.com> was registered on 12 December 2021. At the time of the Amended Complaint, the disputed domain name resolved to an active website, which reproduced content from the Complainant's own websites, but at the date of this decision resolves to a default page without active content.

PARTIES CONTENTIONS

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 trade mark 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

With regard to the first UDRP element, the Panel finds that the disputed domain name <servierlabs.com> is confusingly similar to the Complainant's trade mark SERVIER. Indeed, the disputed domain name incorporates the Complainant's trade mark in its entirety but adds the generic term "labs". The Panel follows in this respect the view established by numerous other decisions that a domain name which wholly incorporates a Complainant's registered trade mark may be sufficient to establish confusing similarity for purposes of the UDRP (for example, WIPO Case No. D2003-0888, Dr. Ing. h.c. F. Porsche AG -v- Vasily Terkin <porsche-autoparts.com>). The Panel further considers it to be well established that the addition of a generic term, such as the term "labs", does not allow a domain name to avoid confusing similarity with a trade mark (see, for example, WIPO Case No. D2019-2294, Qantas Airways Limited -v- Quality Ads <qantaslink.com>). Given that the term "labs" is short for "laboratories", which is part of the Complainant's official name, the addition of this generic term is not sufficient to alter the overall impression of the designation as being connected with the Complainant's trade mark and does not prevent (but, to the contrary, rather increases) the likelihood of confusion between the disputed domain name and the Complainant, its trade marks and associated domain names.

With regard to the second UDRP element, the Complainant asserts that the Respondent is not affiliated with or related to the Complainant in any way, and is neither licensed nor otherwise authorised to make any use of the Complainant's trade mark, or to apply for or use the disputed domain name, and there is no evidence before the Panel to suggest otherwise. The Panel further finds that the Whois information does not suggest that the Respondent is commonly known by the domain name <servierlabs.com> (see, for example, Forum Case No. FA 1781783, Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II -v- Chad Moston/Elite Media Group <bobsfromsketchers.com> ("Here, the WHOIS information of record identifies Respondent as "Chad Moston/Elite Media Group." The Panel therefore finds under Policy paragraph 4(c)(ii) that Respondent is not commonly known by the disputed domain name under Policy paragraph 4(c)(ii)").

Moreover, the website accessed via the disputed domain name <servierlabs.com> as at the time of the amended complaint reproduced (and will have infringed copyright in) content from the Complainant's own website, presumably, with the intention of impersonating the Complainant. This included references to some of the Complainant's figures and projects, displaying the Complainant's logo, and publishing a declaration by the Complainant's CEO. The Panel can conceive of no basis on which such use would amount to a bona fide offering of goods or services by the Respondent indicative of rights or legitimate interests in the disputed domain name. As noted above, as at the date of this decision, the active content of the website is no longer accessible and the disputed domain name resolves to a default page.

Finally, there is no indication that the Respondent is making any legitimate non-commercial or fair use of the disputed domain name. Against this background, and absent any response from the Respondent, or any other information indicating the contrary, the Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

With regard to the third UDRP element, the Complainant asserts that the Respondent uses the disputed domain name to impersonate the Complainant's official and legitimate websites.

The Complainant asserts that the disputed domain name was registered in bad faith, either to disrupt the business of the owner of the relevant mark, or intentionally in an attempt to attract, for commercial gain, internet users to its website by creating a likelihood of confusion with the Complainant's trade marks as to the source, sponsorship, affiliation, or endorsement of the Respondent's website, or location, or of a product or service on the Respondent's website. Indeed, the Panel cannot conceive of any plausible actual or contemplated active use of the disputed domain name by the Respondent that would not be illegitimate on the grounds that it would constitute passing off, an infringement of consumer protection laws, or an infringement of the Complainant's rights under trade mark law in circumstances where that disputed domain name corresponds to the Complainant's trade marks and is similar to the Complainant's domain names currently in used by the latter to promote its goods and services.

The Panel surmises that the Respondent must clearly have been aware of the Complainant's trade mark and business since he was using the Complainant's logo and content on the website accessed through the disputed domain name. In any event, the Panel considers that, if the Respondent had carried out a Google search for the name SERVIER, the search results would have yielded immediate and obvious references to the Complainant. It is therefore reasonable to infer that the Respondent either knew, or should have known, that the disputed domain name would be identical with or confusingly similar to the Complainant's trade marks, and that he registered the disputed domain name in full knowledge of the Complainant's trade marks.

Absent any response from the Respondent, or any other information indicating the contrary, the Panel therefore also accepts that the Respondent has registered and is using the disputed domain name in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **SERVIERLABS.COM**: Transferred

PANELLISTS

Name	Gregor Kleinknecht
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DATE OF PANEL DECISION 2022-03-15

Publish the Decision
