Decision for dispute CAC-UDRP-106542

Case number	CAC-UDRP-106542
Time of filing	2024-05-22 13:19:15
Domain names	servier-vdm.com

Case administrator

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

Complainant

Organization	LES LABORATOIRES SERVIER

Complainant representative

Organization	IP TWINS

Respondent

Name	Skid Skid

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, inter alia, the owner of the following trademark registrations:

International trademark SERVIER (device) n° 549079, dated January 19, 1990, duly renewed and covering goods and services in international classes 01, 03, 05, 10, 16, 35, 41 and 42;

EU trademark SERVIER n° 004279171, dated February 7, 2005, duly renewed and designating goods and services in international classes 05, 35, 41 42 and 44;

International trademark SERVIER n° 814214, dated August 5, 2003, duly renewed, and covering goods and services in international classes 05, 35, 41, 42 et 44;

US Trademark SERVIER n° 5830542, dated August 21, 2017, covering goods and services in classes 5 and 42.

The Complainant and its subsidiaries also hold dozens of trademark registrations on the term “servier” across the world.

FACTUAL BACKGROUND

The Complainant LES LABORATOIRES SERVIER is part of the Servier Group: the largest French pharmaceutical group on an independent level and the second largest pharmaceutical French group in the world. The group is active in 150 countries and employs more than 21,000 people throughout the world. 100 million patients are treated daily with Servier medicinal products and generics. The Complainant and its subsidiaries hold dozens of trademark registrations on the term “servier” across the world.

The disputed domain name <servier-vdm.com> has a date of registration by the Respondent of 6 April 2024.

The Complainant alleges that disputed domain names infringed its rights in accordance with relevant UDRP policies and rules.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name 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 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

The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The disputed domain name <servier-vdm.com> incorporates the Complainant’s SERVIER Trademark in their entirety. Aside from that, Respondent has added a three-letter term “vdm” and the dash sign “-” after “SERVIER” in the disputed domain name. It is unclear what “vdm” refers to exactly, but the Complainant has offered several different types of interpretation of “vdm”: "inter alia, “Vasodepressor Material”, which is relevant with the Complainant’s area of business, as one of the Complainant’s medicine, Coveram, interacts with a Vadodepressor Peptide”. The addition of such other elements cannot prevent a finding of confusing similarity. Previous UDRP panels have consistently stated in this regard that “minor alterations cannot prevent a finding of confusing similarity between the trademark and the domain name” (See LinkedIn Corporation v. Daphne Reynolds, WIPO Case No. D2015-1679). gTLDs such as “.com” are commonly viewed as a standard registration requirement, and as such they are disregarded under the first element confusing similarity test (WIPO Overview 3.0, section 1.11).

The Panel therefore concludes that the disputed domain name is confusingly similar to a trademark in which the Complainants have rights within the meaning of paragraph 4(a)(i) of the Policy.

The Respondent has no rights or legitimate interests in respect of the disputed domain name.

Although the Respondent did not file an administratively compliant (or any) response, the Complainant is still required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the Respondent fails to do so, the

Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

The Complainant in the present case has not licensed or authorized the Respondent to register or use its trademark SERVIER or the disputed domain name. This domain name has a date of registration by Respondent of 6 April 2024, long after the Complainant commenced its use of "SERVIER" trademarks. There is also no evidence that the Respondent “skid skid” is known by the disputed domain name or owns any corresponding registered trademarks. Trademark searches on SERVIER VDM and SERVIERVDM performed by the Complainant did not allow to detect any trademark right that could ground the registration of the disputed domain name by the Respondent.

On the basis of preponderance of evidence, and in the absence of any evidence to the contrary or any administratively compliant response being put forward by the Respondent, the Panel finds that the Respondent does not have rights or legitimate interests in the disputed domain name within the meaning of paragraph 4(a)(ii) of the Policy.

The disputed domain name has been registered and is being used in bad faith.

First of all, the registration of the disputed domain name by the Respondent was done in bad faith. UDRP panels have consistently held that the mere registration of a domain name that is confusingly similar to a famous trademark by an unaffiliated entity can by itself create a presumption of bad faith. Like the Complainant puts forward, "Servier" is the surname of the founder of the Complainant and an arbitrary, fanciful term. The brand and its registered mark enjoy a high level of distinctiveness and has develop a wide reputation. With the reputation of the “SERVIER” trademark, the presumption arises that the disputed domain name was registered with the intention to attract Internet users by creating a likelihood of confusion with the well-known “SERVIER” trademark.

Secondly, the use of the disputed domain name was in bad faith. The Complainant notes that the “disputed domain is not actively used in the web”. However, pursuant to section 3.3 of the WIPO Overview 3.0, the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding if certain circumstances are met. “While 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, (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put.” As the Complainant has rightly pointed out having regard to structure of the domain name in the way confusingly similar to the Complainant’s trademark and without providing additional evidence to prove any potentially legitimate use, it is impossible to think of any good faith use to which the domain name could be put by the Respondent (See also Siemens AG v. Hello Greatness, WIPO Case No. D2020-1641).

Therefore, in the absence of any evidence to the contrary (or any administratively compliant response) being put forward by the Respondent, the Panel determines that the Complainant has provided that the disputed domain name was registered and is being used in bad faith within the meaning of 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. **servier-vdm.com**: Transferred

PANELLISTS

Name	**Carrie Shang**

DATE OF PANEL DECISION 2024-06-25

Publish the Decision