

Decision for dispute CAC-UDRP-106877

Case number **CAC-UDRP-106877**

Time of filing **2024-09-20 09:24:34**

Domain names **sevrveir.com**

Case administrator

Name **Olga Dvořáková (Case admin)**

Complainant

Organization **LES LABORATOIRES SERVIER**

Complainant representative

Organization **IP TWINS**

Respondent

Organization **ADAM SMITH (sevrveir)**

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 various trade mark registrations for its SERVIER word mark throughout the world including European Trade Mark Registration 004279171 registered on October 15, 2007.

FACTUAL BACKGROUND

The Complainant is part of the Servier Group which is the largest independent French pharmaceutical group and the second largest French pharmaceutical group in the world. The Complainant group is active in 150 countries and employs more than 21,000 people throughout the world and 100 million patients are treated daily with its medicinal products and generics. The Complainant owns the domain name <servier.com> which it uses for its corporate email system.

The disputed domain name was registered in mid 2024 and does not resolve to an active website. Emails on the record appear to show that the disputed domain name has been used by the Respondent for the purpose of sending emails that masquerade as if they are from the director of the Complainant's Middle-Eastern subsidiary and which seek to divert payments from the Complainant group's bank account to another bank account.

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 Complainant has demonstrated that it owns various trade mark registrations for its SERVIER word mark throughout the world including European Trade Mark Registration 004279171 registered on October 15, 2007. The Complainant has submitted that the disputed domain name uses the same letters as the Complainant's trade marks (ie. s, e, r, v and i) but in a different order and with the addition of one "v" which amounts to typosquatting. The Panel agrees with the Complainant's analysis that the disputed domain name amounts to a typosquatting of the Complainant's SERVIER mark and is therefore confusingly similar to it for the purposes of paragraph 4(a)(i) of the Policy.

The Complainant has submitted that it owned trade mark rights in its SERVIER mark long before the Respondent registered the disputed domain name and that the Respondent is not commonly known by the disputed domain name which re-directs towards an error page and is not in relation to a bona fide business. It says that it found no trace of a registered "Sevrveir" business or of registered trade marks for it and that a Google search only brought up results about the Complainant. It has also submitted that the Respondent has never been granted an authorisation, licence or any right whatsoever to use the trade mark of the Complainant or any of its variations and that the Respondent is not commercially linked to the Complainant.

The Complainant has also submitted evidence of an email that appears to have been sent from an email address based on the disputed domain name but in the name of the director of the Complainant's Middle-Eastern subsidiary which seeks to divert payments due to the Complainant group's bank account to another bank account. The use of the disputed domain name for an email address that masquerades as if it comes from one of the Complainant's employees in an effort to re-direct funds to a third party bank account amounts to fraudulent use of the disputed domain name which is inconsistent with bona fide use and with the Respondent owning rights or legitimate interests in the disputed domain name.

The Panel finds that 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 rebutted the Complainant's prima facie case and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name. Accordingly the Complaint also succeeds under paragraph 4(a)(ii) of the Policy.

The disputed domain name was registered in mid 2024 many years after the registration of the Complainant's trade mark. Further and as noted by the Complainant, the SERVIER mark is a fanciful mark identical to the founder's surname and is very well reputed

internationally. The fact that the disputed domain name has been used as the base for a fake email address in a scheme to defraud the Complainant group, as described above, also strongly suggests that the Respondent was well aware of the Complainant's SERVIER mark and business when it registered the disputed domain name.

The use of a disputed domain name for illegal activity, here claimed as using the disputed domain name for the purposes of creating and using a fraudulent email address in an attempt to impersonate the Complainant so as fraudulently to re-direct substantial funds due to the Complainant from a major customer, constitutes use in bad faith. The Panel notes that the email was framed as if it was from the Complainant's senior regional director and blatantly sought payment of very substantial sums to an account which was not the Complainant's. This conduct is clearly fraudulent and amounts to use in bad faith. The Complainant has also submitted that the WHOIS name and address information for the registration of the disputed domain name is false, noting that there is an "Ontario" city in California (not Ontairo) but with a different postcode to that entered. This only further reinforces the Panel's view of the Respondent's bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **sevrveir.com**: Transferred

PANELLISTS

Name	Alistair Payne
------	-----------------------

DATE OF PANEL DECISION 2024-10-25

Publish the Decision
