Decision for dispute CAC-UDRP-107205

Case number	CAC-UDRP-107205
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Domain names	webservier.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	LES LABORATOIRES SERVIER

Complainant representative

Organization	IP TWINS

Respondent

Organization	Durar Technical Services

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 part of the Servier Group, a recognized French independent pharmaceutical group; with an active presence in 150 countries, more than 21,000 employees, and 100 million patients treated daily with Complainant's medicinal products and generics.

The Complainant owns among many others, the following Trademarks:

-International trademark for SERVIER (and design), Reg. No. 549079, registered on January 19, 1990, and in force until January 19, 2030, in International Classes ("ICs") 01, 03, 05, 10, 16, 35, 41, 42;

-European trademark for SERVIER (word mark), Reg. No. 004279171, registered on October 15, 2007, in force until February 7, 2025, in ICs 05, 35, 41 42, 44; and

-US trademark for SERVIER (word mark), Reg. No. 5830542, registered on August 13, 2019, and in force until February 13, 2026, in ICs 5 and 42.

FACTUAL BACKGROUND

The Complainant is part of the Servier Group, a recognized French independent pharmaceutical group; with an active presence in 150 countries, more than 21,000 employees, and 100 million patients treated daily with Complainant's medicinal products and generics.

The Complainant owns the domain name <servier.com> registered on December 12, 1998, and used as the Complainant's main website.

The Complainant and its subsidiaries hold dozens of trademark registrations on the term "servier" in multiple jurisdictions across the world. "Servier" is the surname of the founder of the Complainant and an arbitrary, fanciful term, devoid of any meaning in any dictionary except the German dictionary. The SERVIER trademarks are intensively used on all continents.

The disputed domain name <**webservier.com**> was registered on November 6, 2024, and resolves to an inactive error message website.

PARTIES CONTENTIONS

No Response

No Response or any kind of communication has been submitted by the Respondent. However, the Complainant must establish the three elements of paragraph 4(a) of the Policy (See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("WIPO Overview 3.0"), section 4.3.). Therefore, this Panel shall analyze the evidence submitted by the Complainant and decide this dispute under the "balance of probabilities" or "preponderance of the evidence" standard (see paragraphs 14 and 15(a) of the Rules, and WIPO Overview 3.0, section 4.2.)

Complainant´s Contentions (summary):

- The Complainant contends that the disputed domain name is confusingly similar to its trademark SERVIER, which it is reproduced in its entirety; and that the addition of the term "web" does not diminish the risk of confusion between the latter and the Complainant's trademark SERVIER.

- The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, given that it is not commonly known by the disputed domain name; that the Respondent has no Trademark rights that would ground a legitimate interest in the registration of the disputed domain name. The Complainant contends that according to its verifications, there is no preparation to use the disputed domain name in connection with a bona fide offering of goods or services, as it redirects towards an error page.

- The Complainant contends that no authorization has been granted, nor a license or any right whatsoever to use the Complainant's trademark SERVIER, including as a domain name. The Complainant contends that there is no commercial affiliation of any kind with the Respondent.

- The Complainant contends that the Respondent registered and is using the disputed domain name in bad faith given that the Servier Group is widely well-known that it was very unlikely that the Respondent ignored the rights of the Complainant on the trademarks SERVIER; that Complainant's trademark registrations significantly predate the registration date of the disputed domain name; that given the fancifulness of the term "servier" and its intensive use, the registration of the disputed domain name was not a mere coincidence. The Complainant contends that the non-use of the disputed domain name does not prevent a finding of bad faith under the doctrine of passive holding. Finally, the Complainant contends that the disputed domain name's composition, i.e.: web + name of the Company is likely to be used concerning a phishing scheme, e.g.: a fake login portal.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is 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

Identical or Confusingly Similar

Regarding the first element of the Policy, the Complainant has proved before the Panel, that owns trademark Rights over the term SERVIER since January 19, 1990 (see WIPO Overview 3.0, section 1.2.1.)

The Complainant's SERVIER trademark is recognizable within the disputed domain name. The addition of the term “WEB” does not prevent a finding of confusing similarity under the first element of the Policy (see WIPO Overview 3.0, section 1.8).

It is well established that for the purposes of the analysis of the first element of the Policy, in this case, the gTLD “.com”, is considered “as a standard registration requirement and as such is disregarded under the first element confusing similarity test” (see WIPO Overview 3.0, section 1.11.1).

Therefore, this Panel finds that the disputed domain name <**webservier.com**> is confusingly similar to the Complainant’s trademark SERVIER.

Rights or Legitimate Interests

Regarding the second element of the Policy, and having reviewed the evidence submitted, to this Panel it is clear that:

- nothing in the records suggests any demonstrable preparations to use the disputed domain name in connection with a bona fide offering of goods or services; or a legitimate noncommercial or fair use as set out in paragraph 4.c.(i) and 4.c.(iii) of the Policy;
- there is no evidence that the Respondent corresponds to or has become commonly known by the term “webservier.com”; or that it has acquired any trademark rights over the term “Servier”;
- the Respondent is not affiliated with nor authorized by the Complainant in any way; neither carries out any activity for nor has the Complainant any business with the Respondent; no license or authorization has been granted to the Respondent to make any use of the Complainant’s trademark SERVIER or apply for its registration as a domain name.

According to the evidence submitted before this Panel, the Complainant has made out its prima facie case, and the Respondent did not submit any response, or communication nor has rebutted the Complainant’s contentions at any instance.

Therefore, this Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Bad Faith: Registration and Use

Concerning the Registration, the Panel notes that the Complainant’s trademark rights significantly predate the registration date of the disputed domain name by more than 30 years, giving it, an extraordinary amount of time to “teach” the Respondent about the Complainant’s business activity and of its trademarks value. Furthermore, the Panel notes that the Complainant’s trademark SERVIER is very well-reputed internationally (see LES LABORATOIRES SERVIER v. ADAM SMITH (sevrveir), CAC-UDRP 106877), which is sufficient to determine bad faith registration under the Policy.

Accordingly, section 3.1.4 of the WIPO Overview 3.0, states that:

> “Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith.”

Concerning the Use, and as it has been established by multiple panelists since “the inception of the UDRP, the non-use of a domain name (including a blank or “coming soon” page) would not prevent a finding of bad faith under the doctrine of passive holding.” (see WIPO Overview 3.0, section 3.3; LES LABORATOIRES SERVIER v. Kiera Gentry, CAC-UDRP 106772 and LES LABORATOIRES SERVIER v. Tims Akins, CAC-UDRP 104547).

Therefore, this Panel concludes that the disputed domain name has been registered and is being 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. **webservier.com**: Transferred

PANELLISTS

Name	**María Alejandra López García**

DATE OF PANEL DECISION 2025-02-24

Publish the Decision