Decision for dispute CAC-UDRP-107197

Case number	CAC-UDRP-107197
Time of filing	2025-03-27 12:13:21
Domain names	qvar.org

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Teva Pharmaceuticals International GmbH

Complainant representative

Organization	SILKA AB

Respondent

Name	marianne drolet senechal

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

Complainant is the owner of multiple trademarks for QVAR including European Union trademark QVAR, filing number 017940154, registration date 27 December 2018

FACTUAL BACKGROUND

According to the information provided by the registrar the disputed domain name <qvar.org> was registered on 10 January 2025.

The disputed domain name does not resolve to an active webpage. In addition MX records have been set up.

PARTIES CONTENTIONS

Complainant:
Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.

According to the evidence submitted by Complainant is a Swiss Subsidiary of Teva Pharmaceutical Industries Ltd., which is a global pharmaceutical company incorporated in Israel in 1944. Teva Pharmaceutical Industries Ltd. is one of the world's largest generic medicines producers, active in 2024 in 57 countries and with revenues of more than USD 16.5 billion and approximately 37,000 employees internationally. One of Teva Pharmaceutical Industries Ltd's prescription medicines is marketed by Complainant to a large number of countries, and is known under the brand "Qvar". This medicine belongs to a class of drugs called Corticosteroids and is aimed at treating the symptoms of Chronic Asthma; it is commonly administered to patients through the use of an inhaler.

According to Complainant the disputed domain name is identical or confusingly similar to its trademark QVAR as the disputed domain name solely reproduces Complainant's QVAR mark.

According to Complainant, Respondent has no rights or legitimate interest in the disputed domain name. Complainant submits that Respondent is not is not a licensee of Complainant, and it has not received any consent, permission, authorization or acquiescence from Complainant to use its QVAR mark in association with the registration of the disputed domain name. Searches have not found that Respondent is a person connected to the name QVAR or that she has any registered rights to the name QVAR. There is no evidence that Respondent has been commonly known by the disputed domain name or by the term "qvar". Respondent has not used the disputed domain name in good faith or for a non-commercial activity. The disputed domain name merely resolves to a registrar's parking website. In view of this and of the above contentions, Complainant considers that there is no evidence that Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

According to Complainant the disputed domain name is registered and is being used in bad faith. Considering that the disputed domain name solely comprises Complainant's QVAR mark (together with a gTLD), that Internet users commonly associate the disputed domain name and the term "qvar" with Complainant, and that the disputed domain name is almost identical to Complainant's domain name <qvar.com> (under which Complainant's group operates part of its online presence), it is impossible to believe that Respondent would have chosen the disputed domain name if it did not have Complainant's QVAR mark and medicines in mind.

With reference to the use of the disputed domain name, Complainant submits that it resolves to a registrar parking site. The non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. According to Complainant the disputed domain name has been set up with MX records, which suggests that Respondent intended to create email addresses "[...]@qvar.org" and use them. Bearing in mind the composition of the disputed domain name, solely incorporating Complainant's QVAR mark and its extremely close similarities with Complainant's domain name <qvar.com>, and the fact that Respondent has no legitimate connection to Complainant's business, Complainant contends that these MX Records amount to a further inference of bad faith.

Respondent:
No administratively compliant Response has been filed.

RIGHTS

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 Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

Complainant has, to the satisfaction of the Panel, shown 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

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

In the opinion of the Panel the disputed domain name is identical to Complainant's trademark (Policy, Par. 4 (a)(i)). Many UDRP decisions have found that a disputed domain name is identical or confusingly similar to a complainant's trademark where the disputed domain name incorporates the complainant's trademark or the principal part thereof in its entirety or where a disputed domain name consists of a common, obvious or intentional misspelling of a trademark. Complainant has established that it is the owner of trademark registrations for QVAR. The disputed domain name incorporates the entirety of the QVAR trademark. The top-level domain ".org" in the disputed domain name may be disregarded.
The Panel notes that Complainant's registration of its trademark predates the creation date of the disputed domain name.

In the opinion of the Panel Complainant has made a prima facie case that Respondent lacks rights or legitimate interest in the disputed domain name. Complainant has not licensed or otherwise permitted Respondent to use its trademark or to register the disputed domain name incorporating its mark. Respondent is not making a legitimate noncommercial or fair use of the disputed domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark of Complainant. Respondent is not commonly known by the disputed domain name nor has it acquired trademark rights. Complainant has no relationship with Respondent. Respondent did not submit any response.
Under these circumstances, the Panel finds that Respondent has no rights or legitimate interests in the disputed domain name.

The Panel finds that the disputed domain name has been registered and is being used in bad faith. Complainant has rights in the QVAR trademark. Respondent knew or should have known that the disputed domain name included Complainant's mark. The Panel notes the undisputed submission of Complainant that the disputed domain name does not resolve to an active webpage but to a registrar parking page. It is well established that non-use of a domain name does not prevent a finding of bad faith use under the doctrine of passive holding (see section 3.3. of the WIPO Overview 3.0). It is not possible to conceive of any plausible actual or contemplated active use of the disputed domain name by Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of Complainant's rights under trademark law.
The undisputed submission that there are active MX records connected to the disputed domain name, suggests that it is unlikely that Respondent will be able to make any good faith use of the disputed domain name as part of an e-mail address. The record in this case contains no evidence of illegal behavior, but the configuration of MX records presents the potential for an email phishing scheme impersonating Complainant.
The Panel finds that in the circumstances of this case Respondent registered and used the disputed domain name with the intention to attract, for commercial gain, Internet users to the website by creating a likelihood of confusion with the trademark of Complainant as to the source, sponsorship, affiliation, or endorsement of its website or location or of a service on its website or location, which constitutes registration and use in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **qvar.org**: Transferred

PANELLISTS

Name	**Dinant T.L. Oosterbaan**

DATE OF PANEL DECISION 2025-04-28

Publish the Decision