

ADMINISTRATIVE PANEL DECISION

Les Laboratoires Servier v. Mike Servier, Miekr
Case No. D2024-1922

1. The Parties

The Complainant is Les Laboratoires Servier, France, represented by IP Twins, France.

The Respondent is Mike Servier, Miekr, United States of America.

2. The Domain Name and Registrar

The disputed domain name <servierjobs.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 13, 2024. On May 14, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 14, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 15, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on May 16, 2024.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on May 21, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 10, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 11, 2024.

The Center appointed Gökhan Gökçe as the sole panelist in this matter on June 19, 2024. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is Les Laboratoires Servier, one of the largest independent French pharmaceutical groups, present in 150 countries worldwide.

The Complainant owns various word and figurative SERVIER trademark registrations around the world. According to the Complaint, the Complainant is, among others, the registered owner of the following trademark registrations:

- International Trademark Registration for SERVIER (device), No. 549079, dated January 19, 1990;
- International Trademark Registration for SERVIER (device), No. 571972, dated May 29, 1991;
- European Union Trademark Registration for SERVIER, No. 004279171, dated October 15, 2007; and
- International Trademark Registration for SERVIER, No. 814214, dated August 5, 2003.

Pursuant to Annex 4 of the Complaint, the Complainant operates its website at “www.servier.com”.

The disputed domain name was registered on April 9, 2024. The screenshots, as provided by the Complainant, show that the disputed domain name does not resolve to an active website.

The Panel visited the disputed domain name on June 24, 2024, and determined that the website is currently inactive.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to the registered trademarks because it adopts the trademarks in its entirety and merely adds a word “jobs” which addition is normally insufficient to avoid a finding of confusing similarity and in fact may serve to increase the likelihood of confusion by suggesting that the disputed domain name could refer, for example, to a recruitment portal for job candidates wishing to work for the Complainant. Furthermore, the generic Top-Level Domain (“gTLD”) in a domain name is viewed as a standard registration requirement and is disregarded under the first element test.

Further, the Complainant contends that the Respondent lacks rights or a legitimate interests in the disputed domain name, is not making a legitimate noncommercial or fair use of the disputed domain name and is not commonly known by any of the SERVIER trademark or variations thereof. The Complainant contends that the Respondent’s use of the disputed domain name to mislead Internet users is not a bona fide or legitimate noncommercial or fair use of the disputed domain name. The Complainant has not granted the Respondent any license, permission, or authorization to use the SERVIER trademark in any domain name.

The Complainant, finally, says that the disputed domain name was registered and has been used in bad faith. The combination of the distinctiveness of the Complainant’s trademark and its extensive use across the world makes it highly unlikely that the Respondent did not know about the Complainant before the registration of the disputed domain name. Indeed, the Respondent’s choice of disputed domain name cannot have been accidental and must have been influenced by the fame of the Complainant’s trademark.

A simple search on an online search engine yields top-ranked results related to the Complainant. With the Annex 20 of the Complaint, the Complainant also notes that an individual reported to the Complainant that someone using the email address “[...]@servierjobs.com” contacted him for a job interview. In this regard, the Complainant asserts that this unequivocally indicates a bad faith use of the disputed domain name.

B. Respondent

The Respondent did not reply to the Complainant’s contentions.

6. Discussion and Findings

According to paragraph 4(a) of the Policy, in order to succeed, the Complainant must establish each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to the trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

Paragraph 4(a) of the Policy states that the Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complainant’s contentions. *Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

However, concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”).

For the evaluation of this case, the Panel has taken note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the consensus views stated therein.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant’s trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

It is also well accepted that a gTLD, in this case “.com”, is typically ignored when assessing the similarity between a trademark and a domain name. [WIPO Overview 3.0](#), section 1.11.1.

Although the addition of other term here, “jobs” may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds 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 showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Furthermore, the nature of the disputed domain name, comprising the Complainant’s trademark and the term “jobs”, carries a risk of implied affiliation. See [WIPO Overview 3.0](#), section 2.5.1.

Panels have held that the use of a domain name for illegal activity such as sending fraudulent emails, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Respondent’s use of the disputed domain name to create a false association with the Complainant and to perpetuate fraudulent employment or phishing schemes under a disputed domain name that creates a likelihood of confusion that the disputed domain name is operated by the Complainant constitutes bad faith pursuant to the Policy.

Panels have held that the use of a domain name for illegal activity such as sending fraudulent emails, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent’s registration and use of the disputed domain name constitutes bad faith under the Policy.

The record submitted by the Complainant showing the Respondent’s fraudulent email scam indicates that the Respondent most likely registered the disputed domain name for the purpose of using it in an email address to fraudulently obtain personal and financial information from job applicants hoping to become employed by the Complainant. This indicates that the disputed domain name was used for impersonating the Complainant. This unequivocally indicates a bad faith use of the disputed domain name.

In addition, the Panel finds that the failure of the Respondent to submit a response to the Complainant’s contentions affirms the Panel’s finding of bad faith.

The Panel finds that the Complainant has established the third element of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <servierjobs.com> be transferred to the Complainant.

/Gökhan Gökçe/

Gökhan Gökçe

Sole Panelist

Date: July 3, 2024