Decision for dispute CAC-UDRP-102494

Case number	CAC-UDRP-102494
Time of filing	2019-05-20 13:58:34
Domain names	novartisjobs.com

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	Novartis AG

Complainant representative

Organization	BrandIT GmbH

Respondent

Organization	James Rodriguez

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any pending or decided legal proceedings which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

Various trademark registrations worldwide, inter alia,

US Trademark: NOVARTIS, Reg. no: 4986124 and US trademark: NOVARTIS Reg. no: 2997235.

FACTUAL BACKGROUND

Registrant has registered domain name NOVARTISJOBS.com on March 5th, 2019. Complainant argues that the disputed domain name should be transferred to her.

PARTIES CONTENTIONS

On May 21, 2019 the Respondent filed a response as per below:

RESPONDENT:
I registered the domain for some reasons that’s personal.
Fine, the domain looks to similar to yours, no problems.
Do you now expect me to transfer the domain I’ve invested a lot on just like that?

I don’t really have much to discuss about this.

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

1. THE DOMAIN NAME IS CONFUSINGLY SIMILAR

The domain name <novartisjobs.com> (hereinafter referred to as the “Disputed Domain Name”), which was registered on 2019-03-05 according to the WHOIS, incorporates entirely the Complainant’s well-known, registered trademark NOVARTIS with a generic term “jobs”, which is closely related to the Complainant’s business activities.

2. RESPONDENT HAS NO RIGHTS OR LEGITIMATE INTEREST IN RESPECT OF THE DOMAIN NAME

The Complainant has never granted the Respondent a right to use the NOVARTIS trademark within the Disputed Domain Name, nor is the Respondent affiliated to the Complainant. The Complainant has not found that the Respondent is commonly known by the Disputed Domain Name or that it has interest over the Disputed Domain Name or the major part of it.

The Respondent has requested for commercial compensation, without proving that it has any legitimate rights or interests over the Disputed Domain Name.

3. DOMAIN NAME REGISTERED AND BEING USED IN BAD FAITH
NOVARTIS is considered to be a well-known trademark. The combination with the generic term “jobs” in the Disputed Domain Name qualifies as a registration in bad faith of the Complainant’s rights.

The Complainant has agreed to compensate the out-of-pocket expense of the Respondent, i.e. registration fee and/or renewal fee for the Disputed Domain Name. The Respondent replied claimed 3,000 USD for the transfer. This makes clear that the Respondent had a commercial intent with the domain name, which is a BAD FAITH use, please see the WIPO Overview 3.0, paragraph 3.1.1.

Passive (parking of) domain name:
The Disputed Domain Name is currently parked. In WIPO Case No. D2000-0003 Telstra Corporation Limited v. Nuclear Marshmellows the Panel decided that registration and passive holding of a domain name which has no other legitimate use and clearly refers to the Complainant's trademark may constitute registration and use in bad faith. The Respondent in this case uses the domain name in the same way. It therefore qualifies as 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. **NOVARTISJOBS.COM**: Transferred

PANELLISTS

Name	**Mr. E.J.V.T. van den Broek**

DATE OF PANEL DECISION 2019-06-06

Publish the Decision