Decision for dispute CAC-UDRP-102602

Case number	CAC-UDRP-102602
Time of filing	2019-07-29 09:29:58
Domain names	novartis.solutions

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	Novartis AG

Complainant representative

Organization	BrandIT GmbH

Respondent

Name	rajesh rajesh

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other proceedings related to the disputed domain name.

IDENTIFICATION OF RIGHTS

Amongst many other trademarks, the Complainant is the proprietor of the Indian Trademark registration NOVARTIS 702108 applied for on March 18, 1996 for several goods in class 9.

FACTUAL BACKGROUND

The Complainant is the proprietor of the NOVARTIS trademarks registered as a word and figurative mark in several classes across numerous countries all over the world. The Complainant is a global healthcare company based in Switzerland that provides solutions to address the evolving needs of patients worldwide. The Complainant's products are sold in about 155 countries and they reached nearly 1 billion people globally in 2017. About 126 000 people of 145 nationalities work at Novartis around the world.

The disputed domain name has been registered on April 13, 2019. The Respondent has used a proxy server to register the disputed domain name.

The website under the disputed domain name currently refers to IT- Services and trainings. Complainant found out that a, in view of design and content partially highly similar website referring to the same services is hosted under <omtrainings.com>

whereas the e-mail of the Respondent is rajesh@omtrainings.com.

PARTIES CONTENTIONS

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

In order to succeed in its claim, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied:

(i) The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

(ii) The Respondent has no rights or legitimate interests with respect to the disputed domain name; and

(iii) The disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has established the fact that it has valid trademark rights for “NOVARTIS”.

The disputed domain name in its second level part, Novartis, is identical and accordingly confusingly similar to the Complainant´s mark.

The Panel therefore considers the disputed domain name to be confusingly similar to the trademark NOVARTIS in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Respondent has no rights or legitimate interests in the disputed domain name, since the Respondent is not a licensee of the Complainant nor has the Complainant granted any permission or consent to the Respondent to use its trademarks or designations confusingly similar to its trademarks. Furthermore, the Respondent has no rights or legitimate interests in the disputed domain name, since there is no indication that the Respondent is commonly known by the name “NOVARTIS” or

that the Respondent is using the disputed domain name in connection with a bona fide offering of goods or services.

The Panel therefore finds that the Respondent does not have rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

The panel follows the assessment of the Panel in the WIPO Case Novartis AG v. Domain Admin, Privacy Protection Service INC d/b/a PrivacyProtect.org, / Sergei Lir Case No. D2016-1688 that “NOVARTIS"” is a well-known mark. Accordingly, the Respondent must have been aware of the Complainant and its trademarks when registering the disputed domain name. The Complainant has not authorized the Respondent to make use of a designation which is highly similar to its marks. This Panel does not see any conceivable legitimate use that could be made by the Respondent of this particular domain name without the Complainant’s authorization.

Also the further circumstances of this case, in particular the use of a privacy service, the connection to another highly similar website with similar identical services under the same top level domain as in the e-mail address of the Respondent furthermore indicate that the Respondent registered and uses the disputed domain name primarily with the intention of attempting to attract, for commercial gain, Internet users to its potential website or other online locations, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of such website or location, or of a product or service on such website or location. The Panel therefore considers the disputed domain name to have been registered and used in bad faith in accordance with paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **NOVARTIS.SOLUTIONS**: Transferred

PANELLISTS

Name	**Dietrich Beier**

DATE OF PANEL DECISION 2019-09-11

Publish the Decision