Decision for dispute CAC-UDRP-102657

Case number	CAC-UDRP-102657
Time of filing	2019-09-05 09:58:50
Domain names	ch-novartis.com

Case administrator

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

Complainant

Organization	Novartis AG

Complainant representative

Organization	BRANDIT GmbH

Respondent

Name	Niklas Fischer

OTHER LEGAL PROCEEDINGS

There are no other legal proceedings the Panel is aware of which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the trademark NOVARTIS as a word in several classes in numerous of countries all over the world including in Switzerland (registration n°1803987, registered on February 15, 1996).

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Complainant claims that the Complainant is a global healthcare company based in Switzerland that provides solutions to address the evolving needs of patients worldwide. The Complainant asserts that the Complainant manufactures drugs such as clozapine (Clozaril), diclofenac (Voltaren), carbamazepine (Tegretol), valsartan (Diovan) and many others, which are sold in about 155 countries and reached nearly 800 million people globally in 2018.

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

1.
The Complainant has, to the satisfaction of the Panel, shown that the disputed domain name is identical or confusingly similar to the Complainant's trademarks (within the meaning of paragraph 4(a)(i) of the Policy). In particular, the Panel finds that the disputed domain name is almost identical to the Complainant's trademark "NOVARTIS".

In this regard, it shall be noted that <CH-NOVARTIS.COM> exactly reproduces the trademark "NOVARTIS", with the mere addition of the verbal portion “ch-", which is generally considered an abbreviation for "Switzerland" (according to ISO 3166-1 and as an international registration plate).

When a disputed domain name consists of the Complainant's full trademark with the Prefix by a geographical term, it is very likely to confuse consumers, who might erroneously believe that the domain is somehow connected with Complainant's business activity in Switzerland, where the Complainant is headquartered.

2.

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).

The Panel finds that the Complainant successfully submitted prima facie evidence that the Respondent has made no use of, or demonstrable preparations to use, neither of the disputed domain name in connection with a bona fide offering of goods or services, nor is making a legitimate non-commercial or fair use of the disputed domain name, nor is commonly known under the disputed domain name. This prima facie evidence was not challenged by the Respondent, which did not file any Response to the Complaint.

As a matter of fact, there are no arguments why the Respondent could have own rights or legitimate interests in the disputed domain name. "NOVARTIS" definitely is a distinctive sign used by the Complainant both as business name and as trademark in order to denote its services. Therefore, the Panel accepts the contentions of the Complainant that the Respondent has no such rights or legitimate interests in <CH-NOVARTIS.COM>.

3.
The Complainant has, to the satisfaction of the Panel, shown the disputed domain name to has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

There is no explanation proving that the Respondent has made use of, or demonstrable preparations to use, of the disputed domain name in connection with a bona fide offering of goods or services, nor that it is making a legitimate non-commercial or fair use of the disputed domain name, nor that is commonly known as <CH-NOVARTIS.COM>.

In the absence of a Response and given the considerable reputation of the Complainant and its trademarks, the Panel infers that the Respondent had the Complainant's trademarks "NOVARTIS" in mind when registering the disputed domain name. As a matter of fact, it is not possible to conceive of any plausible actual or contemplated active use of the disputed domain name by the Respondent that would not be illegitimate, such as an infringement of the Complainant’s rights under trademark law.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **CH-NOVARTIS.COM**: Transferred

PANELLISTS

Name	**Prof. Dr. Lambert Grosskopf, LL.M.Eur.**

DATE OF PANEL DECISION 2020-01-02

Publish the Decision