Decision for dispute CAC-UDRP-102914

Case number	CAC-UDRP-102914
Time of filing	2020-02-12 11:13:47
Domain names	novartislive.com

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	Novartis AG

Complainant representative

Organization	BRANDIT GmbH

Respondent

Organization	liu lei

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings pending or decided between the same parties and relating to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the registered owner amongst others of International trademark no. 663765 “NOVARTIS”, registered on July 01, 1996, designating also China.

FACTUAL BACKGROUND

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

It results from the Complainant’s undisputed allegations that it is a global healthcare company based in Switzerland that provides solutions to address the evolving needs of patients worldwide. It manufactures drugs such as clozapine (Clozaril), diclofenac (Voltaren), carbamazepine (Tegretol), valsartan (Diovan) and many others. Its products are sold in about 155 countries and reached nearly 800 million people globally in 2018. About 125 000 people of 145 nationalities work at Novartis around the world.

The Complainant further contends its trademark NOVARTIS be distinctive and well-known all around the world, including in China, where the Respondent is located.

The Complainant registered many domain names containing the term “NOVARTIS”, for example, <novartis.com> (created on April 02, 1996), and <novartis.net> (created on April 25, 1998). The Complainant uses these domain names to connect to a website through which it informs potential customers about its NOVARTIS mark and its products and services. It also uses Local Website in China: www.novartis.com.cn/.

The disputed domain name <novartislive.com> was registered on December 06, 2019 and resolved to a website displaying advertisement for a domain name “ag88.com” which appeared to be a gambling website. The Disputed Domain Name currently does not resolve to any active website.
The Complainant sent a cease and desist letter on December 17, 2019 to the domain name owner’s known email address indicated in the Whois record, but the Respondent failed to respond.

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 Panel finds that the disputed domain name is confusingly similar to the Complainant’s trademark. Many Panels have found that a disputed domain name is confusingly similar to a Complainant’s trademark where the disputed domain name incorporates the Complainant’s trademark in its entirety. This is the case in the case at issue where the Complainant’s trademark “NOVARTIS” is fully included in the disputed domain name. The generic and descriptive term (i.e. live) that follows the Complainant’s trademark “NOVARTIS” in the disputed domain name is not able to prevent the possibility of confusion amongst consumers. In fact, the trademark “NOVARTIS” is clearly recognizable within the disputed domain name.

2. In the absence of any Response, or any other information from the Respondent indicating the contrary, the Panel further holds that the Complainant successfully presented its prima facie case and that the Respondent has no rights or legitimate interests in respect of the disputed domain name. In particular, the Respondent is not affiliated with nor authorized by the Complainant in any way, and he is not related in any way to the Complainant’s business. In addition, the Respondent is not commonly known by the disputed domain name. Finally, the disputed domain name resolved to a website displaying advertisement for a domain name “ag88.com” which appeared to be a gambling website. This Panel finds that such use can neither be considered as bona fide offering of goods or services nor a legitimate non-commercial 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.

3. Finally, the Panel finds that the disputed domain name has been registered and is being used in bad faith. It is the view of this Panel that the Respondent has intentionally registered the disputed domain name which totally reproduces the Complainant's trademarks NOVARTIS. By the time the disputed domain name was registered, it is unlikely that the Respondent did not have knowledge of the Complainant's rights on its trademark NOVARTIS. The Complainant also proved that the Respondent used the disputed domain name to resolve to a website displaying advertisement for a domain name "ag88.com" which appeared to be a gambling website. These facts, including the failure to submit a Response, the failure to respond to the cease and desist letter sent by the Complainant in relation to the disputed domain name, also confirm that the disputed domain name is used to intentionally attempt to attract, for commercial gain, Internet users to the Respondent's web site or other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's web site or location, or of a product or service on the Respondent's web site or location.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **NOVARTISLIVE.COM**: Transferred

PANELLISTS

Name	**Dr. Federica Togo**

DATE OF PANEL DECISION 2020-03-20

Publish the Decision