Decision for dispute CAC-UDRP-103300

Case number	**CAC-UDRP-103300**
Time of filing	**2020-09-22 09:20:25**
Domain names	**novartisinvest.com**

Case administrator

Name	**Olga Slanařová (Case admin)**

Complainant

Organization	**Novartis AG**

Complainant representative

Organization	**BRANDIT GmbH**

Respondent

Name	**Zellot Ellite**

OTHER LEGAL PROCEEDINGS

The Panel is not informed of other legal proceedings relating to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of several "NOVARTIS" trademarks, among which:

- the EU trademark "NOVARTIS" n° 000304857;
- the EU trademark "NOVARTIS" n° 013393641,
- the international trademark registration "NOVARTIS" n° 1349878.

("the NOVARTIS trademarks")

The Complainant also uses the domain names “novartis.ca”, "novartis.com" and "novartispharma.com", which are connected to the official website of the Complainant.

FACTUAL BACKGROUND

FACTS ASSERTED BY COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Complainant is one of the biggest global healthcare pharmaceutical and healthcare groups based in Switzerland, which provides medical solutions to address the evolving needs of patients.

The Complainant's products are manufactured and sold in many regions worldwide. The Complainant uses the NOVARTIS trademarks and the domain names, including "novartis.ca", "novartis.com" and "novartispharma.com" to promote and purchase innovative medical treatments and medicines.

The Respondent registered the domain name "novartisinvest.com" ("the disputed domain name") on 16 August 2020. The domain name is not currently used for an active website, although the Complainant has found that on 17 September 2020 the disputed domain name resolved to an active website calling itself "NOVARTISINVEST" to promote bitcoin trading services. The Complainant's NOVARTIS trademarks were displayed in multiple, prominent positions on the website, without the prior consent of the Complainant.

The Complainant sent a cease-and-desist letter to the Respondent asking to cease the use of the disputed domain name. As the Respondent was under privacy shield, the letter was sent to the email address 8caec8c8f32e4f20b1dbd98e6ddf1b12.protect@whoisguard.com as provided in the WHOIS.

The Complainant did not receive a response from the Respondent.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown that 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

I. The disputed domain name is confusingly similar to the Complainant's trademarks

The Panel finds that the disputed domain name "novartisinvest.com" is confusingly similar to the Complainant's NOVARTIS trademarks. The disputed domain name incorporates entirely the NOVARTIS trademarks of the Complainant combined with the term "invest", which is closely related to the Complainant and its business activities.

II. 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

The Panel notes that the Complainant has never granted the Respondent any right to use the NOVARTIS trademarks within the disputed domain name, nor is the Respondent affiliated to the Complainant in any form.

The Complainant has demonstrated that nevertheless, the disputed domain name resolved to an active website which called itself “NOVARTISINVESTMENT” and which appeared to be in the business of bitcoin trading. The term “Novartis” was displayed in prominent positions, e.g. in the logo, in the “about us” sector and especially in the live chat where it greeted the Internet users with the line “Welcome to Novartis”. Such unauthorized use of the NOVARTIS trademarks on the website associated to the disputed domain name may create a risk of confusion in consumers’ minds when they visit the website, as they may be falsely led to believe that the website under the disputed domain name is in some way connected to the Complainant, which is not the case. Currently, the disputed domain name is no longer used for any active website.

Therefore, the Panel finds that the Complainant has shown that the Respondent has not made a legitimate use of the disputed domain name for a bona fide offering of goods or services.

Furthermore, the Panel notes that the Respondent’s name contains no reference to NOVARTIS or a similar word or name.

In lack of any Response from the Respondent, or any other information indicating the contrary, the Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

III. The Complainant has, to the satisfaction of the Panel, shown that the disputed domain name was registered and is being used in bad faith

In addition to the abovementioned facts, the Respondent’s likely knowledge of the Complainant’s NOVARTIS trademarks, the failure of the Respondent to respond and hence to present a credible evidence-backed rationale for registering and using the disputed domain name, and the use by the Respondent of a privacy shield to conceal its identity, all prove that the Respondent has registered and used the disputed domain name in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **NOVARTISINVEST.COM**: Transferred

PANELLISTS

Name	**Tom Joris Heremans**

DATE OF PANEL DECISION 2020-11-09

Publish the Decision