

Decision for dispute CAC-UDRP-103928

Case number	CAC-UDRP-103928
Time of filing	2021-07-12 09:17:44
Domain names	Novartisinvestmentcompany.com

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
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Complainant

Organization	Novartis AG
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Complainant representative

Organization	BRANDIT GmbH
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Respondent

Name	Guy McCormick
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OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

The Complainant is the registered owner amongst others of Nigerian trademark no. 69385 "NOVARTIS" registered on August 2, 1996 and International trademark no. 663765 "NOVARTIS", registered on July 1, 1996.

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 pharmaceutical and healthcare company based in Switzerland that provides solutions to address the evolving needs of patients worldwide, by developing and delivering innovative medical treatments and drugs. The Complainant's products are manufactured and sold in many regions worldwide. The Complainant has an active presence in Nigeria where the Respondent is located, dated back to 2004. It has also sponsored a project of WHO in 2004 for treatment of malaria, a very common disease in Nigeria.

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

The Complainant registered many domain names containing the term "NOVARTIS" or in combination with other terms, for example, <novartis.com> (created on April 2, 1996), <novartis.net> (created on April 25, 1998) and <novartispharma.com> (created on October 27, 1999). The Complainant uses these domain names to connect to a website through which it informs about its NOVARTIS mark with related products and services.

The disputed domain name <novartisinvestmentcompany.com> was registered on June 7, 2021 and resolved to a website featuring the Complainant's NOVARTIS trademark and offering trading services in digital currency.

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 trademarks. 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 terms (i.e. "investment" and "company"), that follow the Complainant's trademark "NOVARTIS" in the disputed domain name, are 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 featuring the Complainant's well-known trademark without Complainant's authorization and offering trading services in digital currency. 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 well-known trademark. 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. The Complainant also proved that the Respondent used the disputed domain name to resolve to a website featuring the Complainant's well-known trademark and offering trading services in digital currency. These facts, including the failure to submit a Response with conceivable explanation of its behaviour and the use of a privacy shield to hide its identity, 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. **NOVARTISINVESTMENTCOMPANY.COM**: Transferred

PANELLISTS

Name	Dr. Federica Togo
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DATE OF PANEL DECISION 2021-08-23

Publish the Decision