Decision for dispute CAC-UDRP-101401

Case number	CAC-UDRP-101401
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Domain names	novonordisk.net

Case administrator

Name	Aneta Jelenová (Case admin)

Complainant

Organization	Novo Nordisk A/S

Complainant representative

Organization	Wallberg IP Advice

Respondent

Organization	shilirong shilirong

OTHER LEGAL PROCEEDINGS

The panel is not aware of any other pending proceedings. The panel is, however, aware of the ADR proceedings CAC 101316 being decided with regard to the same domain name which is referred to below in the section "Procedural factors".

IDENTIFICATION OF RIGHTS

The Complainant is, inter alia, the proprietor of the trademark 786062 Novo Nordisk in China registered on October 28, 1995, inter alia for pharmaceuticals, which was in accordance with the provided renewal certificate renewed until October 27, 2025.

FACTUAL BACKGROUND

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

The Complainant is a global healthcare company almost 90 years old. Headquartered in Denmark, Complainant employs approximately 41.600 employees in 75 countries, and markets its products in more than 180 countries. The Annual turnover was 14.3 billion Euro in 2015.

The Complainant holds trademark registrations worldwide of the trademark Novo Nordisk.

The Complainant has a strong Internet presence with its main website being www.novonordisk.com. The Complainant does

own numerous other domain names including domain names containing the Novo Nordisk trademark as second level domains.

The Complainant has recently become aware of the registration of the Disputed domain name <novonordisk.net>. The Registrant registered the Disputed domain name on March 23, 2016. The Disputed domain name resolves to an active website for online gambling.

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.

The Disputed domain name was the subject of a previous complaint with the CAC, i.e. in case 101316. This complaint was rejected due to the fact that the forwarded renewal certificates concerning the Complainant's trademark registrations of NOVO NORDISK in China did not show that the marks were still in force in China at the time of filing of the complaint. The panel in that case could have invited the Complainant to rectify that omission under Rule 12, but, in its best discretion, did not do so and decided the case on the given basis.

The panel of this case allows, aware of the limited circumstances where re-filings were accepted, and not at last in view of WIPO case D2001-1041, a re-filing of the Complaint in the present case, including sufficient evidence of the validity of the claimed trademark right.

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.

The Complainant has established the fact that it has valid trademark rights for "Novo Nordisk". The disputed domain name is confusingly similar to the Novo Nordisk mark of the Complainant.

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

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 “Novo Nordisk”“ 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 within the meaning of paragraph 4(a)(ii)of the Policy.

In view of the global character and the size of the Complainant, the “Novo Nordisk” mark is in panel´s view at least a „widely known“ trademark. 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 Disputed domain name without the Complainant’s authorization.

The circumstances of this case, in particular the use of the Disputed domain name representing on its second level identically the trademark of the Complainant 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. **NOVONORDISK.NET**: Transferred

PANELLISTS

Name	**Dietrich Beier**

DATE OF PANEL DECISION 2017-03-01

Publish the Decision