

Decision for dispute CAC-UDRP-104438

Case number CAC-UDRP-104438

Time of filing 2022-03-23 09:25:17

Domain names Novattis.com

Case administrator

Organization Denisa Bilík (CAC) (Case admin)

Complainant

Organization Novartis AG

Complainant representative

Organization BRANDIT GmbH

Respondent

Name Barry Web

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

Novartis AG (“Novartis” or “Complainant”) is the owner of various registrations for the trademark NOVARTIS on a worldwide basis. Trademark NOVARTIS is registered as both a word and figurative mark in several classes worldwide, including Nigeria. The Complainant’s trademark registrations in Nigeria applying to the present proceedings include the following earlier rights of Nigerian trademarks: a) trademark NOVARTIS in Class 10, Reg. No. 12535, registered on 5 November 2018; b) trademark NOVARTIS in Class 9, Reg. No. 57829, registered on 25 October 2000; c) trademark NOVARTIS in Class 5, Reg. No. 69385, registered on 2 August 1996.

FACTUAL BACKGROUND

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

Novartis is a global pharmaceutical company, active in Nigeria as early as of 2004 according to the local public media and its activities have been increasing since then. Previous UDRP panels have stated that the NOVARTIS trademark is well-known (inter alia Novartis AG v. Domain Admin, Privacy Protection Service INC d/b/a PrivacyProtect.org, / Sergei Lir, WIPO Case No. D2016-1688). The Complainant owns numerous domain names composed of either its trademark NOVARTIS

alone, including <novartis.com> (created on 2 April 1996), <novartis.net> (created on 25 April 1998) or in combination with other terms, e.g. <novartispharma.com> (created on 27 October 1999). The Complainant enjoys a strong presence online also via its official social media platforms.

The disputed domain name <novattis.com> was registered on 7 March 2022 by Nigerian resident Barry Web. This domain name incorporates a typo of the Complainant's well-known, distinctive trademark NOVARTIS by merely replacing the letter "r" with the letter "t", which is visually and phonetically confusingly similar to the Complainant's Trademark NOVARTIS. The Complainant underlined that the Respondent is not sponsored by or affiliated with Complainant in any way. Complainant has not licensed, authorized, or permitted Respondent to use Complainant's trademarks in any manner, including in domain names.

The disputed domain name was used to impersonate the Complainant's official website for UK.

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 agrees with the Complainant that the disputed domain name is confusingly similar to the Complainant's trademark NOVARTIS. Considering the renown of the Complainant and its trademark NOVARTIS, it becomes evident that incorporating a typo of the Complainant's well-known, distinctive trademark NOVARTIS by merely replacing the letter "r" with the letter "t", does not set aside the confusing similarity between the disputed domain name and the Complainant's trademark.
2. The Panel acknowledges that the Complainant presented prima facie evidence that the Respondent is not sponsored by or affiliated with Complainant in any way. Furthermore, Complainant has not licensed, authorized, or permitted Respondent to use Complainant's trademarks in any manner, including in domain names. The Respondent's name "Barry Web" does not resemble the disputed domain name in any manner. Respondent's use of the disputed domain name does not constitute a bona fide offering of goods or services or a legitimate non-commercial or fair use.
3. As no administratively compliant response has been provided to the Panel and the prima facie evidence was not challenged by the Respondent, the Panel concludes that the Respondent meant Complainant's trademark NOVARTIS when he registered the disputed domain name <novattis.com> (see WIPO Overview 3.0, para. 3.1.1). Previous UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain

names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. Accordingly, the Panel finds that the disputed domain name was registered in bad faith.

4. The evidence in this case also show that the disputed domain name has been used to impersonate the Complainant's official website for UK. Therefore, it is clear that the Respondent used the disputed domain name to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the Complainant's mark. This qualifies as bad faith use under paragraph 4(b)(iv) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **NOVATTIS.COM**: Transferred

PANELLISTS

Name	dr. Darius Sauliūnas
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DATE OF PANEL DECISION 2022-05-05

Publish the Decision
