

Decision for dispute CAC-UDRP-105709

Case number CAC-UDRP-105709

Time of filing 2023-08-23 08:54:18

Domain names auth-novartisbio.com

Case administrator

Name Olga Dvořáková (Case admin)

Complainant

Organization Novartis AG

Complainant representative

Organization BRANDIT GmbH

Respondent

Organization Novartis Bio

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

International trademark NOVARTIS (WIPO Reg. No. 663765) registered on July 1, 1996, in classes 1, 2, 3, 4, 5, 7, 8, 9, 10, 14, 16, 17, 20, 22, 28, 29, 30, 31, 32, 40, 42.

FACTUAL BACKGROUND

Novartis AG ("Novartis" or "Complainant") is a global pharmaceutical company, active globally 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.

Trademark NOVARTIS is registered as both a word and figurative mark in several classes worldwide, including Australia. The vast majority of the Complainant's trademark registrations significantly predates the registration of the disputed domain name (August 3, 2023), inter alia, International trademark NOVARTIS (WIPO Reg. No. 663765) registered on July 1, 1996, in classes 1, 2, 3, 4, 5, 7, 8, 9, 10, 14, 16, 17, 20, 22, 28, 29, 30, 31, 32, 40, 42.

The Complainant owns numerous domain names composed of either its trademark NOVARTIS alone or combined with generic words, including <novartis.com> (created on April 2, 1996). The Complainant enjoys a strong presence online also via its official social media platforms.is the owner of various registrations for the trademark NOVARTIS on a worldwide basis.

The disputed domain name <auth-novartisbio.com> was registered on August 3, 2023. This domain name incorporates the Complainant's well-known trademark NOVARTIS in combination with the terms "auth" (abbreviation of term "authentication") and "bio".

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

PARTIES CONTENTIONS

The Complainant submits that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.

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

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 the Complainant's well-known trademark NOVARTIS in its entirety and combining it with generic abbreviations „auth“ and „bio“, does not set aside the confusing similarity between the disputed domain name and the Complainant's trademark.

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, the Complainant has not licensed, authorized, or permitted Respondent to use Complainant's trademarks in any manner, including in domain names. The Respondent's name does not resemble the disputed domain name in any manner. Respondent's use of the disputed domain names does not constitute a bona fide offering of goods or services or a legitimate non-commercial or fair use.

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/she registered the disputed domain name (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 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.

The evidence in this case also show that the disputed domain name has been used to impersonate the Complainant's official website for Australia. 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. **auth-novartisbio.com**: Transferred
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PANELLISTS

Name	Darius Sauliūnas
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DATE OF PANEL DECISION **2023-10-04**

Publish the Decision
