Decision for dispute CAC-UDRP-106306

Case number	CAC-UDRP-106306
Time of filing	2024-03-05 10:08:30
Domain names	novartisco.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Novartis AG

Complainant representative

Organization	BRANDIT GmbH

Respondent

Name	Tony Stone

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 owner of several trademarks including the word NOVARTIS, such as:

- The international trademark for the word NOVARTIS, registered on 1 July 1996 under No. 663765, for goods and services of the classes 1, 2, 3, 4, 5, 7, 8, 9, 10, 14, 16, 17, 20, 22, 28, 29, 30, 31, 32, 40 and 42;
- The international trademark for the word NOVARTIS, registered on 31 October 1996 under No. 666218, for goods and services of the classes 41 and 42;
- The European trademark for the word NOVARTIS, registered on 25 June 1999 under No. 304857, for goods and services of the classes 1, 5, 9, 10, 29, 30, 31 and 32.

Moreover, the Complainant is also the owner of several domain names that include the word NOVARTIS, such as the domain name <novartis.com> registered on April 2, 1996.

FACTUAL BACKGROUND

According to the Complainant, Novartis is one of the biggest global pharmaceutical and healthcare groups. It provides solutions to address the evolving needs of patients worldwide by developing and delivering innovative medical treatments and drugs. The Complainant, with headquarters in Switzerland, was created in 1996 through a merger of the companies Ciba-Geigy and Sandoz, and

is the holding company of the Novartis group. In 2022, Novartis achieved net sales from its operations of USD 50.5 billion, and it employed approximately 102 000 full-time equivalent employees as of December 31, 2022.

The disputed domain name <novartisco.com> was registered on 21 January 2023.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it. The Complainant´s contentions are summarised below.

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

According to the Complainant, the disputed domain name is confusingly similar to its well-known trademark NOVARTIS. The Complainant asserts that the addition of the descriptive term “co” is commonly used as theabbreviation for “corporation” and would not prevent a finding of confusing similarity to the trademark (see WIPO Case No. D2019-2767, Minerva S.A. v. Domain Administrator, Fast Serv Inc. d.b.a. QHoster.com).

The generic Top-Level Domain extension of the disputed domain name, in this case “.com”, is typically disregarded under the confusing similarity test, as it is a standard requirement for registration.

This finding is not being disputed by the Respondent and the Panel concludes that the disputed domain name is confusingly similar to the Complainant's trademarks.

2. The Respondent has no rights or legitimate interests in respect of the disputed domain name

The Complainant asserts that the Respondent is not known by the disputed domain name.

The Complainant further states that the Respondent is not affiliated with, nor authorized or licensed by the Complainant to make any use of the Complainant’s trademark or apply for registration of the disputed domain name. In addition, the Complainant asserts that it does not carry out any activity for, nor has it any business with the Respondent.

The Panel finds that the Complainant has shown that the Respondent is not commonly known by the disputed domain name and

has not made legitimate use of the disputed domain name for a bona fide offering of goods or services. 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.

3. The disputed domain name was registered and is being used in bad faith

The Complainant refers to past panels that have held that the NOVARTIS trademark is well known (see WIPO Case No. D2020-3203, Novartis AG v. Amartya Sinha, Global Webs Link, Novartis RO).

Consequently, according to the Complainant, given the distinctiveness of the Complainant's trademarks and its worldwide reputation, it is reasonable to infer that the Respondent has registered and used the disputed domain name with full knowledge of the Complainant's trademark.

Moreover, the Complainant states that the structure of the disputed domain name in and of itself – incorporating the Complainant's well-known trademark NOVARTIS followed by the term "co" - reflects the Respondent's intention to create an association, and a subsequent likelihood of confusion, with the Complainant, its NOVARTIS trademark and the Novartis group in Internet users' mind. In this regard, past panels have consistently found that the mere registration of a domain name that is confusingly similar to a widely known trademark by an unaffiliated entity can by itself create a presumption of bad faith (WIPO case No. D2023-0041, The Chemours Company v. chemours jhvjhvl, ljhvlhvh).

Furthermore, the Complainant demonstrates that the disputed domain name has been used for pay-per-click links. Past panels have held that use for pay-per-click links indicates bad faith being disruptive of the Complainant's business and diverting and confusing Internet users for commercial gain and can indicate actual knowledge of the Complainant and its business (WIPO Case No. D2022-4237, Vorwerk International AG v. Host Master, Transure Enterprise Ltd).

In lack of any Response from the Respondent, the Panel concludes that the Respondent has registered and is using 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. **novartisco.com**: Transferred

PANELLISTS

Name	**Tom Heremans**

DATE OF PANEL DECISION 2024-04-23

Publish the Decision