Decision for dispute CAC-UDRP-107223

Case number	CAC-UDRP-107223
Time of filing	2025-01-08 09:12:03
Domain names	novartisvn.cyou

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	Novartis AG

Complainant representative

Organization	Abion GmbH

Respondent

Name	JUNHUA CHI

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 submitted evidence that it is the registered owner of the following:

1. Chinese trademark No. 15569053 for NOVARTIS, registered since 14 December 2015 for the international class 9;
2. Chinese trademark No. 42520143 for NOVARTIS, registered since 7 September 2020 for the international class 35;
3. international trademark registration No. 1349878 for NOVARTIS registered since 29 November 2016 for the international classes 9, 10, 41, 42, 44 and 45, designating numerous countries including Vietnam and China;
4. international trademark registration No. 663765 for NOVARTIS, registered since 1 July 1996 for the international classes 1, 2, 3, 4, 5, 7, 8, 9, 10, 14, 16, 17, 20, 22, 28, 29, 30, 31, 32, 40 and 42, designating numerous countries including Vietnam;
5. US trademark No. 4986124 for NOVARTIS, registered since 28 June 2016 for the international classes 5, 9, 10, 41, 42 and 44;
6. US trademark No. 6990442 for NOVARTIS (logo), registered since 28 February 2023 for the international class 5; and
7. EU trademark No. 304857 for NOVARTIS, registered since 25 June 1999 for the international classes 1, 5, 9, 10, 29, 30, 31 and 32.

The Complainant claims that its trademark NOVARTIS is well-known and supports such a claim by referring to decisions of previous

UDRP panels, particularly the WIPO Case No. D2020-3203.

The Complainant also provided information, supported by evidence, that it is the registered holder of numerous domain names composed of either its trademark NOVARTIS alone, including <novartis.com> (created on 2 April 1996), <novartis.us> (created on 19 April 2002), <novartis.vn> (created on 8 January 2010), or in combination with other terms, e.g. <novartispharma.com> (created on 27 October 1999). The Complainant uses these domain names to resolve to its official websites through which it informs Internet users and potential consumers about its NOVARTIS mark and its related products and services. In addition, the Complainant alleges to enjoy a strong presence online via its official social media platforms.

FACTUAL BACKGROUND

The Complainant 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 two other companies Ciba-Geigy and Sandoz, and is the holding company of the Novartis Group. The Complainant had net sales of USD 45.4 billion in 2023 and employs approximately 76,000 people worldwide. The Complainant's products are manufactured and sold in many countries worldwide, including in Vietnam and in China, where it has an active presence through associated companies and where it has been playing an active role in the local markets and societies.

The disputed domain name was registered on 6 December 2024. It resolves to an inactive page and has MX records configured.

The Complainant sent a cease and desist letter to the Respondent on 9 December 2024, followed by reminders on 18 December 2024 and 23 December 2024, but received no response.

The Registrar confirmed that the Respondent is the current registrant of the disputed domain name and that the language of the registration agreement is English.

The Respondent has not filed a Response.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

The Complainant contends that:

1. The disputed domain name is confusingly similar to the Complainant's well-known trademark NOVARTIS. It contains the Complainant's trademark in its entirety with the mere addition of "vn" (the country code for Vietnam where the Complainant operates) and the gTLD ".cyou".

2. The Respondent has no rights or legitimate interests in the disputed domain name, it is not licensed to use the NOVARTIS mark, it is not affiliated with the Complainant, it is not known by the disputed domain name, and it has only passively held the disputed domain name. In addition, the Respondent failed to respond to the cease-and-desist letter from the Complainant in which it could present arguments explaining its rights and legitimate interest in the disputed domain name.

3. The disputed domain name was registered and is being used in bad faith given the well-known nature of the NOVARTIS trademark, the passive holding, the failure to respond to the Complainant's cease-and-desist letter, the concealing of the Respondent's identity regarding ownership of the disputed domain name, and the configuration of MX records suggesting potential fraudulent use of the disputed domain name for e-mail communication.

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

This is a proceeding pursuant to Paragraph 4 of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules") and the CAC Supplemental Rules.

Paragraph 15 of the Rules provides that the Panel shall decide the complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

According to Paragraph 4(a) of the Policy, a complainant must prove each of the following: (A) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; (B) the respondent has no rights or legitimate interests in respect of the domain name; (C) the domain name has been registered and is being used in bad faith.

(A) Identical or confusingly similar domain name

The Complainant demonstrated that it owns the asserted trademark registrations for the mark NOVARTIS which were registered long before the disputed domain name. It is well established that a nationally or regionally registered trademark confers on its owner sufficient rights to satisfy the requirement of having trademark rights for the purposes of standing to file a UDRP case. Therefore, the Panel finds that the Complainant has established such rights. Furthermore, this Panel concurs with the Complainant (and also earlier panel decisions) that the Complainant's trademark NOVARTIS can be considered a well-known trademark, especially because of its extensive use and international repute in the pharmaceutical sector.

The disputed domain name incorporates the Complainant's NOVARTIS trademark in its entirety, with the addition of "vn" (being the internationally recognized country code for Vietnam). The addition of this essentially geographical term does not prevent a finding of confusing similarity, particularly as it refers to a country where the Complainant has an active business presence and owns the domain name <novartis.vn>.

It is well established that the generic top-level suffix may be disregarded when considering whether a disputed domain name is confusingly similar to a trademark in which the Complainant has rights. There is no reason why the generic Top-Level Domain ".cyou" should be an exception to that principle.

The Panel, therefore, finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

(B) Lack of rights or legitimate interests

The Respondent has not filed a Response and has neither provided any other information that would oppose the Complainant's allegations. Therefore, the Panel holds that the Complainant successfully presented its prima facie case that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

In particular, the Respondent is not in any way connected with the Complainant, nor is it authorized to use the Complainant's trademark for its commercial activities. In addition, the Respondent is not commonly known by the disputed domain name pursuant to Paragraph 4(c)(ii) of the Policy. Furthermore, it was demonstrated by evidence submitted by the Complainant that the disputed domain name has not been used for a bona fide offering of goods or services or a legitimate non-commercial or fair use. The disputed domain name has only been used to display an inactive page since its registration.

The Panel, therefore, finds that the Respondent has no rights or legitimate interest in the disputed domain name.

(C) Registration and use of the disputed domain name in bad faith

With respect to the bad faith argument, the Complainant essentially states that:

1. The NOVARTIS mark is well-known globally in the pharmaceutical sector, and the Complainant has a significant presence in China where the Respondent is located. It is therefore implausible that the Respondent was unaware of the Complainant's rights when registering the disputed domain name.
2. The domain name incorporates the Complainant's distinctive trademark with the addition of "vn", referring to Vietnam where the Complainant operates and owns the corresponding country code domain name. This geographical targeting

suggests the Respondent specifically targeted the Complainant.
3. The disputed domain name is being passively held.
4. The Respondent has configured MX records for the disputed domain name, enabling e-mail functionality. This creates a risk of the disputed domain name being used for fraudulent purposes through e-mail impersonation of the Complainant.

The Panel has already found that the disputed domain name is confusingly similar to the Complainant's trademark NOVARTIS. It is well established that the mere registration of a domain name that is confusingly similar to a trademark by an unaffiliated entity can lead to the presumption of bad faith.

In addition, the Panel believes that the Complainant submitted evidence that sufficiently demonstrates the Respondent must have (or should have) been aware of the existence of the Complainant, its well-known trademark, and its domain name. It is difficult to find any good faith reason for the registration of the disputed domain name by the Respondent. The Respondent had the opportunity to present evidence of its actual or contemplated good faith use both in these proceedings or as a response to the Complainant's cease and desist letter, but it failed to do so.

With that in mind, the Panel concludes that several signs of bad faith in registering and use of the disputed domain name by the Respondent can be found in this case. Therefore, the Panel finds that the disputed domain name has been registered and has been used by the Respondent in bad faith.

In conclusion, the Panel finds that all three elements required by Paragraph 4(a) of the Policy were met and makes the following decision.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **novartisvn.cyou**: Transferred

PANELLISTS

Name	**Vojtěch Chloupek**

DATE OF PANEL DECISION 2025-02-07

Publish the Decision