Decision for dispute CAC-UDRP-107335

Case number	CAC-UDRP-107335
Time of filing	2025-02-19 10:28:13
Domain names	novartispharmaceuticalscorp.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Novartis AG

Complainant representative

Organization	Abion GmbH

Respondent

Organization	Buyer Peter

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 owns several trademarks consisting either of the word element “NOVARTIS” alone or where “NOVARTIS” represents the main distinctive feature.

Some of the most relevant trademarks are as follows:

- International Registration of a word trademark “NOVARTIS”, No. 663765 in Classes 1;2;3;4;5;7; 8; 9; 10; 14; 16; 17; 20; 22; 28; 29; 30; 31; 32; 40 and 42, registered on July 1, 1996;
- International Registration of a word trademark “NOVARTIS”, No. 1349878, registered on November 29, 2016, in classes 9, 10, 41, 42, 44 and 45;
- The United States trademark NOVARTIS No. 4986124, registered on June 28, 2016, in classes 5, 9, 10, 41, 42 and 44;
- The United States trademark NOVARTIS No. 4986124, registered on June 28, 2016;
- The United States trademark NOVARTIS No. 6990442, registered on February 28, 2023; and
- The EUTM NOVARTIS No. 000304857, registered on 25 June 1999 in classes 1, 5, 9, 10, 29, 30, 31, 32.

Moreover, the Complainant owns an important domain names portfolio containing the wording NOVARTIS, such as:

- <novartis.com> (registered in 1996); and
- <novartispharma.com> (registered in 1999).

FACTUAL BACKGROUND

The Complainant is a multinational healthcare company based in Switzerland. Founded in 1996 and nowadays manufactures several well-known drugs which are commercialized worldwide. It has operations over most of the important jurisdictions, including the US market.

No information is known about the Respondent who registered the disputed domain name <novartispharmaceuticalscorp.com> on 19 January 2025. The disputed domain name has been used in connection with any goods or services and resolves to a blank page.

In view of the above-mentioned, on 21 January, 2025, the Complainant sent a cease and desist letter to the Respondent, via the Registrar's online contact form, and two subsequent reminders on 31 January, 2025, and 5 February, 2025. The Complainant has not received any response.

PARTIES CONTENTIONS

COMPLAINANT'S CONTENTIONS:

Identical or confusingly similar

The Complainant argues that the disputed domain name <novartispharmaceuticalscorp.com> and the Complainant's registered trademark NOVARTIS are confusingly similar.

The Complainant argues that its trademark is fully contained within the disputed domain name and points out that the elements in which the signs vary, are descriptive and thus do not alter the overall confusion between the signs.

No rights or legitimate interests

The Complainant argues that there is no evidence at all that the Respondent is commonly known by the disputed domain name or a name corresponding to the disputed domain name, nor that the Respondent is making a bona fide offering of goods or services or preparing to use the disputed domain name in connection with a bona fide offering of goods and services.

Registered and used in bad faith

As far as bad faith registration and use is concerned, the Complainant points out that by incorporating in its second level portion, the Complainant's trademark NOVARTIS in its entirety, followed by the relevant terms "pharmaceuticals corporation", a reference to the Complainant's subsidiary 'Novartis Pharmaceuticals Corporation', the Respondent is making a direct association to the Complainant and its business. Considering this situation and the fact that the Complainant's trademark is well known mark, the Complainant concludes that the Respondent could not be unaware of the Complainant's rights over the name NOVARTIS at the time of the disputed domain name registration.

Moreover, the Complainant states that the Respondent is using the registered address of the Complainant's subsidiary 'Novartis Pharmaceuticals Corporation' (59, Route 10, East Hanover, NJ 07936, United States).

Finally, the website with the disputed domain name is currently inactive and there is no evidence of it having ever been associated with any goods or services. The Complainant underlines that, although the domain name is not being actively used by the Respondent, passive holding may amount to bad faith use under certain circumstances, as in this case.

RESPONDENT'S CONTENTIONS:

The Respondent did not respond to the Complaint.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed Domain Name is identical or confusingly similar to trademarks 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 does not have any 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 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

Paragraph 15 of the Rules states that the Panel shall decide a 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 deemed applicable.

In the case of default by a Party, Rule 14 states that if a Party, in the absence of exceptional circumstances, does not comply with a provision of, or requirement under the Rules, the Panel shall draw such inferences therefrom as appropriate.

In the present case, the Respondent has not submitted any Response and consequently has not contested any of the contentions made by the Complainant.

The Panel proceeds therefore to decide only on the basis of the Complainant's factual statements and the documentary evidence provided in support of them.

1. The Complainant is the owner of a considerable number of trademarks whose common distinctive element is the particle "NOVARTIS", which does not have any known meaning. Besides the Swiss protection, the trademark "NOVARTIS" has been registered by the Complainant in various non-EU countries, including the Respondent's country of origin, the United States.

The disputed domain name <novartispharmaceuticalscorp.com> comprises the distinctive element "NOVARTIS" which is followed by the English word "pharmaceuticals" and an abbreviation "corp.", both descriptive of the Complainant and its business, and the Top-Level domain ".com".

Since the Complainant's trademark is fully comprised within the disputed domain name and the additional elements have a lower degree of distinctiveness, the Panel considers that the disputed domain name is confusingly similar to the Complainant's previously registered trademarks.

The Panel accordingly concludes that paragraph 4(a)(i) of the Policy is satisfied.

2. The Respondent is not in any way related to the Complainant's business and is not the agent of the Complainant. The Respondent is not currently known and has never been known as “NOVARTIS”, or any combination of this trademark.

The domain name <novartispharmaceuticalscorp.com> is not associated with any webpage. Therefore, the Respondent does not appear to have a legitimate interest in the disputed domain name.

Consequently, and in the absence of a Response, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, so that the requirements of paragraph 4(a)(ii) of the Policy are met.

3. As to the bad faith at the time of the registration, the Panel finds that, in light of the distinctiveness of the Complainant’s trademark with which the disputed domain name is confusingly similar, and due to the worldwide presence of the Complainant’s business known under the name “NOVARTIS”, the Respondent was more likely be aware of the Complainant’s trademark at the time of the registration of the disputed domain name.

The above-mentioned is even clearer when considering that when registering the disputed domain name, the Respondent used the registered address of the Complainant’s subsidiary ‘Novartis Pharmaceuticals Corporation’ (59, Route 10, East Hanover, NJ 07936, United States)

Furthermore, the Complainant notes that the disputed domain name does not resolve to any active web site, nor appears to have been used so far. In this regard, prior Panels have discussed the passive holding of a domain name (e.g. in Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003) and found that the passive holding itself can constitute bad faith use.

The Panel recalls that „the relevant issue is not whether the Respondent is undertaking a positive action in bad faith in relation to the disputed domain name, but instead whether, in all the circumstances of the case, it can be said that the Respondent is acting in bad faith”. (see Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003)

The particular circumstances of this case, allow the Panel to infer that this is the case when the inactivity of the disputed domain name holder could be considered as a bad faith use, given that:

the Complainant’s business name and trademark “NOVARTIS” have a strong reputation and are widely known, as evidenced by their substantial use in several countries and online;

the disputed domain name includes (as the only element which is different from the Complainant's trademark), the word "pharmaceuticals" and the abbreviation "CORP" which can be perceived as allusive to the Complainant itself;

the Respondent has not replied to any of the Complainant's attempts of settlements;

the Respondent chose to register the Complainant's address in the domain name database instead of its own address when registering the disputed domain name;

the Respondent has provided no evidence whatsoever of any actual or contemplated good faith use by it of the disputed domain name.

Bearing in mind these circumstances, the Respondent can be deemed to have registered the disputed domain name to create an association, and a subsequent likelihood of confusion, with the Complainant's trademark in Internet users' minds for whatsoever unfair purpose.

Under such circumstances, the Panel finds that the disputed domain name was registered and used in bad faith.

Accordingly, the Panel finds that the Complainant has satisfied 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. **novartispharmaceuticalscorp.com**: Transferred

PANELLISTS

Name	**Hana Císlerová**

DATE OF PANEL DECISION 2025-03-23

Publish the Decision