Decision for dispute CAC-UDRP-107365

Case number	CAC-UDRP-107365
Time of filing	2025-02-28 09:42:54
Domain names	novartishelthcare.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Novartis AG

Complainant representative

Organization	Abion GmbH

Respondent

Name	Sunil kumar

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings that are pending or decided and that relate to the Disputed Domain Name.

IDENTIFICATION OF RIGHTS

Complainant states that it is the owner of “the registered well-known trademark NOVARTIS® in numerous jurisdictions all over the world,” including the following, for which Complainant has provided documentation:

- Int’l Reg. No. 663,765 for NOVARTIS (registered July 1, 1996);
- U.S. Reg. No. 4,986,124 for NOVARTIS (registered June 28, 2016);
- EU Reg. No. 304,857 for NOVARTIS (registered June 25, 1999).

These registrations are referred to herein as the “NOVARTIS Trademark”.

FACTUAL BACKGROUND

Complainant states that it is the holding company of “one of the biggest global pharmaceutical and healthcare groups,” which in 2023 “achieved net sales of USD 45.4 billion, and total net income amounted to USD 14.9 billion and employed approximately 76 000 full-time equivalent employees as of December 31, 2023.”

The Disputed Domain Name was created on January 28, 2025, and is being used in connection with what Complainant describes as a “parking page with ‘pay per click’ (‘PPC’) links” that “clearly refer to the Complainant and its business activities, such as ‘Medical

Health' and 'Medical Healthcare Insurance'" and "[u]pon clicking these links, Internet users were invited to visit other websites related to 'Healthcare Provider', among others."

PARTIES CONTENTIONS

Complainant contends, in relevant part, as follows:

Paragraph 4(a)(i): Complainant states that it has rights in the NOVARTIS Trademark based on the registrations listed in the Complaint, including those cited above; and that the Disputed Domain Name is confusingly similar to the NOVARTIS Trademark because the Disputed Domain Nameb incorporate the NOVARTIS Trademark in its entirety plus "the relevant term 'helthcare'," which does not prevent a finding of confusing similarity.

Paragraph 4(a)(ii): Complainant states that Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because, inter alia, "Complainant has never granted the Respondent with any rights to use the NOVARTIS® trademark in any form, including in the Disputed Domain Name"; "Complainant has not found that the Respondent is known by the Disputed Domain Name"; "[w]hen searching for any trademarks in the name of the Respondent 'Sunil kumar', there are also no results related to the Disputed Domain Name terms to be found"; "PPC pages generate revenues when Internet users click on the links displayed therein"; and Respondent did not reply to Complainant's attempt to contact Respondent via "the contact form listed on the publicly available WhoIs records" and "a Cease-and-Desist letter to the Registrar, asking the latter to forward the letter to the Registrant."

Paragraph 4(a)(iii): Complainant states that the Disputed Domain Name was registered and is being used in bad faith because, inter alia, the NOVARTIS Trademark "is a widely known trademark registered in many countries and the Complainant enjoys a strong online presence"; "Complainant's trademark registrations… significantly predate the registration of the Disputed Domain Name"; "[i]t is therefore inconceivable that the Respondent was unaware of the existence of the Complainant when it registered the Disputed Domain Name"; "the structure of the Disputed Domain Name – incorporating the Complainant's well-known trademark NOVARTIS®, followed by the relevant term 'helthcare' (being a misspelled form of the term 'healthcare'), shows that the Respondent registered the Disputed Domain Name having the Complainant and its NOVARTIS® trademark in mind" and therefore "reflects the Respondent's clear intention to create an association, and a subsequent likelihood of confusion, with the Complainant's trademark in Internet users' mind"; "the mere registration of a domain name that is confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a widely known trademark by an unaffiliated entity can by itself create a presumption of bad faith"; Respondent's use of a PPC page in connection with the Disputed Domain Name "aims at attracting Internet users for commercial gain by creating a likelihood of confusion with the Complainant's NOVARTIS trademark as to the sources, sponsorship, affiliation, or endorsement of the aforementioned PPC page"; and "active MX records are associated to the Disputed Domain Name," which creates "a risk that corresponding fraudulent email addresses [may] be used."

No administratively compliant response has been filed.

RIGHTS

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 Complainant has rights (within the meaning of paragraph 4(a)(i) of the UDRP).

NO RIGHTS OR LEGITIMATE INTERESTS

Complainant has, to the satisfaction of the Panel, shownRespondent to have no rights or legitimate interests in respect of the Disputed Domain Name (within the meaning of paragraph 4(a)(ii) of the UDRP).

BAD FAITH

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 UDRP).

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

Identical or Confusingly Similar: Paragraph 4(a)(i)

The trademark citation and documentation provided by Complainant are sufficient to establish that Complainant has rights in the NOVARTIS Trademark.

As to whether the Disputed Domain Name is identical or confusingly similar to these trademarks, the relevant comparison to be made is with the second-level portion of the Disputed Domain Name only (i.e., "novartishelthcare") because "[t]he applicable Top Level Domain ('TLD') in a domain name (e.g., '.com', '.club', '.nyc') is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test." WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), section 1.11.1.

Here, the Disputed Domain Name contains the NOVARTIS Trademark in its entirety. As set forth in section 1.7 of WIPO Overview 3.0: "[I]n cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing."

As to the addition of the word "helthcare" (a typographical variation of the word "healthcare"), section 1.8 of WIPO Overview 3.0 says: "Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element." The panel finds that, despite inclusion of the word "helthcare," the NOVARTIS Trademark is recognizable within the Disputed Domain Name.

Accordingly, the Panel finds that Complainant has proven the first element of the Policy.

Rights or Legitimate Interests: Paragraph 4(a)(ii)

Complainant states that Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because, inter alia, "Complainant has never granted the Respondent with any rights to use the NOVARTIS® trademark in any form, including in the Disputed Domain Name"; "Complainant has not found that the Respondent is known by the Disputed Domain Name"; "[w]hen searching for any trademarks in the name of the Respondent 'Sunil kumar', there are also no results related to the Disputed Domain Name terms to be found"; "PPC pages generate revenues when Internet users click on the links displayed therein"; and Respondent did not reply to Complainant's attempt to contact Respondent via "the contact form listed on the publicly available WhoIs records" and "a Cease-and-Desist letter to the Registrar, asking the latter to forward the letter to the Registrant."

WIPO Overview 3.0, section 2.1, states: "While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of 'proving a negative', requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element."

The Panel finds that Complainant has established its prima facie case and, without any evidence from Respondent to the contrary, the Panel is satisfied that Complainant has satisfied the second element of the UDRP.

Registered and Used in Bad Faith: Paragraph 4(a)(iii)

Whether a domain name is registered and used in bad faith for purposes of the UDRP may be determined by evaluating four (non-exhaustive) factors set forth in paragraph 4(b) of the UDRP: (i) circumstances indicating that the registrant has registered or the registrant has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the registrant's documented out-of-pocket costs directly related to the domain name; or (ii) the registrant has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the registrant has engaged in a pattern of such conduct; or (iii) the registrant has registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) by using the domain name, the registrant has intentionally attempted to attract, for commercial gain, Internet users to the registrant's website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the registrant's website or location or of a product or service on the registrant's website or location.

As set forth in section 3.1.4 of WIPO Overview 3.0: "Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar… to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith." That is applicable here.

Further, numerous panels under the UDRP have found the registration and use of a domain name that is confusingly similar to a complainant's trademark to constitute bad faith pursuant to paragraph 4(b)(iv) of the UDRP where, as here, the domain name is associated with a monetized parking page that could be construed as associated with the complainant. See, e.g., Wal-Mart Stores, Inc. v. Whois Privacy, Inc., WIPO Case No. D2005 0850; Columbia Pictures Industries, Inc. v. North West Enterprise, Inc., WIPO Case No. D2006-0951; and Dr. Martens International Trading GmbH, Dr. Maertens Marketing GmbH v. Private Whois Service, WIPO Case

No. D2011-1753.

Accordingly, the Panel finds that Complainant has proven the third element of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **novartishelthcare.com**: Transferred

PANELLISTS

Name	**Douglas Isenberg**

DATE OF PANEL DECISION 2025-04-01

Publish the Decision