Decision for dispute CAC-UDRP-107424

Case number	CAC-UDRP-107424
Time of filing	2025-03-24 08:45:06
Domain names	novartis-pharma-france.com

Case administrator

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

Complainant

Organization	Novartis AG

Complainant representative

Organization	Abion GmbH

Respondent

Name	Wahab SALISA

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 owner of inter alia:

- International trademark NOVARTIS, with registration number 1349878, of November 29, 2016, for goods and services in classes 1, 3, 5, 9, 10, 16, 29, 30, 31, 32, 35, 40, 41, 42 and 44, which designate several jurisdictions, including the African Intellectual Property Organization, of which Togo is a member state;
- International trademark NOVARTIS, with registration number 1249666, of April 28, 2015, for goods and services in classes 9, 10, 41, 42, 44 and 45, designating the African Intellectual Property Organization; and
- European Union trademark NOVARTIS with registration number 304857 of June 25, 1999 for goods in classes1, 5, 9, 10, 29, 30, 31 and 32.

FACTUAL BACKGROUND

The Complainant was established in 1996 through a merger of Ciba-Geigy and Sandoz, and is one of the biggest global pharmaceutical and healthcare groups which develops and distributes medical treatments and drugs. In 2024, the Complainant achieved net sales of USD 50.3 billion, its total net income amounted to USD 11.9 billion and it employed approximately 76,000 full-time equivalent employees. The Complainant's products are manufactured and sold in many countries worldwide, including in France, where it has an active presence through associated companies and subsidiaries.

The disputed domain name was registered on January 26, 2025 and, after briefly resolving to a parking site, is currently inactive. The disputed domain name was configured with MX (mail exchange) records.

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.

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 Respondent did not reply to the Complainant's contentions. However, the consensus view of UDRP panels is that the Respondent's default does not automatically result in a decision in favor of the Complainant. The Complainant must still establish each of the three elements required by paragraph 4(a) of the Policy. Although the Panel may draw appropriate inferences from a respondent's default, paragraph 4 of the Policy requires the Complainant to support its assertions with actual evidence in order to succeed in these proceedings. Paragraph 14(b) of the Rules provides that, in the absence of exceptional circumstances, the Panel shall draw such inferences as it considers appropriate from a failure of a party to comply with a provision or requirement of the Rules. The Panel finds that in this case there are no such exceptional circumstances.

The Panel finds that the disputed domain name is confusingly similar to the NOVARTIS trademarks identified above, as the disputed domain name contains the trademark in its entirety, with the addition of "-pharma-france", which does not prevent a finding of confusing similarity under the first element (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("WIPO Overview 3.0"), section 1.7: "While each case is judged on its own merits, in 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").

The Complainant must make a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name, which the Respondent may rebut (e.g., Croatia Airlines d.d. v. Modern Empire Internet Ltd., WIPO Case No. D2003-0455). The Panel takes note of the various allegations of the Complainant and in particular, that no authorization has been given by the Complainant to the Respondent to use the Complainant's NOVARTIS trademarks or to register the disputed domain name and that the Respondent has not been commonly known by the disputed domain name. These allegations of the Complainant remain unchallenged. There is no evidence before the Panel to show that the Respondent has rights or legitimate interests in the disputed domain name.

The Complainant showed that it has registered the NOVARTIS trademarks well before the Respondent registered the disputed

domain name, and the Complainant undisputedly alleged that the NOVARTIS trademarks were well-known at the time the Respondent registered the disputed domain name, which reputation was confirmed by different UDRP panels (e.g., Novartis AG contre Okoye Igwe, WIPO Case No. D2020-2174; Novartis AG v. Debra McCann, CAC-UDRP-104169; Novartis AG v. Marc Jennens, CAC-UDRP-104102). The Panel in the current proceedings concurs that the NOVARTIS trademarks do indeed have a reputation, and infers from the term "pharma" as part of the disputed domain name that the Respondent must have had the Complainant and its NOVARTIS trademarks in mind when registering the disputed domain name. Therefore, the Panel is satisfied that the disputed domain name was registered in bad faith.

The Complainant must also prove that the Respondent uses the disputed domain name in bad faith. Under the circumstances at hand, the Panel finds that the passive holding of the disputed domain name constitutes use in bad faith. In this respect WIPO Overview 3.0, section 3.3, states: "From the inception of the UDRP, panels have found that the non-use of a domain name (..) would not prevent a finding of bad faith under the doctrine of passive holding. While panels will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put." In this case, the Panel concludes that the following cumulative circumstances are indicative of the Respondent's passive holding of the disputed domain name in bad faith:

1. the fact that the NOVARTIS trademarks are well-known, and that the Respondent is found to have likely had the NOVARTIS trademarks in mind when it registered the disputed domain name;
2. the Respondent's failure to reply to the Complainant's communication which preceded these administrative proceedings;
3. the lack of a Response in the current proceedings; and
4. the Respondent's failure to refute the Complainant's allegation that the Respondent configured the disputed domain name with MX records, which suggests that the Respondent uses the disputed domain name for fraudulent purposes.

Therefore, the disputed domain name is to be transferred to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **novartis-pharma-france.com**: Transferred

PANELLISTS

Name	**Alfred Meijboom**

DATE OF PANEL DECISION 2025-04-18

Publish the Decision