Decision for dispute CAC-UDRP-107437

Case number	CAC-UDRP-107437
Time of filing	2025-03-26 14:41:53
Domain names	novartisbiotech.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Novartis AG

Complainant representative

Organization	Abion GmbH

Respondent

Name	Zekai Zhang

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 (the "Domain Name").

IDENTIFICATION OF RIGHTS

The Complainant relies upon various trade mark registrations that comprise or incorporate the term "Novartis", including:

(i) International trade mark no. 1544148, for NOVARTIS as a word mark, in classes 09, 35, 38, and 42 with a registration date of 29 June 2020, which has proceeded to registration at least in part in approximately 26 teritories including Australia;

(ii) EU trade mark no. 304857 for NOVARTIS as a word mark, in classes 1, 5, 9, 10, 29, 30, 31 and 32 with a filing date of 5 July 1996 and a registration date of 25 June 1999; and

(iii) US trade mark no. 4986124 for NOVARTIS as a word mark, in classes 5, 9, 10, 41, 42, and 44 with a filing date of 13 September, 2013 and a registration date of 28 Jun 2016.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT

The Novartis Group is one of the biggest global pharmaceutical and healthcare groups, developing and delivering 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.

In 2024, the Novartis Group achieved net sales of USD 50.3 billion, and total net income amounted to USD 11.9 billion and employed approximately 76 000 full-time equivalent employees as of 31 December 2024.

The Complainant's products are manufactured and sold in many countries worldwide including in Australia.

The Complainant owns numerous domain names composed of either its trade mark NOVARTIS alone, including <novartis.com> (created on 2 April 1996) or in combination with other terms, such as <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 mark and its related products and services.

The Domain Name was registered on 27 February 2025.

At the time the Complainant found out about the Domain Name on 11 March 2025, it resolved to a parking page. At the time of filing of this Complaint, the Domain Name still resolved to a parking page.

On 11 March 2025, the Complainant sent a Cease-and-Desist Letter to the Registrant, through the contact form listed on the publicly available WhoIs records and to the Registrar, asking the latter to forward the letter to the Registrant. In the Cease-and-Desist Letter, the Complainant asserted that the unauthorised use of its trade mark within the Domain Name violated the Complainant's trademark rights and requested a voluntary transfer of the Domain Name. The Complainant further sent a reminder on 21 March 2025, but there was no response.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the 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 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 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 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 Complainant has demonstrated that it has registered trade mark rights in the term NOVARTIS and the Domain Name can only be sensibly read as that term combined with the term "biotech" and the ".com" generic top level domain. Accordingly, the Complainant's trade mark is clearly recognisable in the Domain Name. This is sufficient for a finding of confusing similarity under

the Policy (see section 1.7 of the WIPO Overview 3.0). The Complainant has, therefore, satisfied the requirements of paragraph 4(a)(i) of the Policy.

The Panel is also satisfied that the Domain Name inherently impersonates the Complainant and finds that this impersonation is deliberate on the part of the Respondent. In this respect, the Domain Name incorporates the Complainant's well known name and mark, which has no obvious descriptive or generic meaning, and can only be understood to be making direct reference to the Complainant. It combines that term with the ordinary English word "biotech", which is descriptive of the Complainant's activities. It follows that any internet user seeing or using the Domain Name would understand this to a domain name belonging to or authorised by the Complainant when it does not, and the Panel is satisfied that this was the Respondent's deliberate intent. In this respect, the Panel considers this to be a case where there is no practical or analytical difference from those cases where a domain name takes the form <[trade mark].[gTLD]>, since the addition of a term that is merely descriptive of the trade mark owner's business, does nothing to signal to the internet user that the domain name is or may not be associated with the trade mark owner (and, indeed, in some cases may even reinforce that reading of the domain name).

Exactly why the Respondent has registered a Domain Name that impersonates the Complainant is not clear, although the Panel notes the Complainant's claim that MX records have been configured such that there is "therefore a risk" that the Domain Name might be used for fraudulent emails. However, regardless of the exact reasons why the Domain Name has been registered and is being held, there is no right or legitimate interest in registering and holding a domain name that impersonates a trade mark holder, and such registration and use is in bad faith. (On the issue of legitimate rights and interests where a domain name takes the form <[trade mark].[gTLD]> see also section 2.5.1 of the WIPO Overview 3.0.)

The Complainant has, therefore, satisfied the requirements of paragraphs 4(a)(ii) and (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. **novartisbiotech.com**: Transferred

PANELLISTS

Name	**Matthew Harris**

DATE OF PANEL DECISION 2025-04-25

Publish the Decision