Decision for dispute CAC-UDRP-107507

Case number	CAC-UDRP-107507
Time of filing	2025-04-22 16:20:25
Domain names	novartisfund.site

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Novartis AG

Complainant representative

Organization	Abion GmbH

Respondent

Name	Ju Wahn

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 the well-known trademark “NOVARTIS” in numerous jurisdictions all over the world, including but not limited to the following trademark registrations:

Jurisdiction	Trademark	Registration Number	Registration Date
International	NOVARTIS	663765	July 1, 1996
International	NOVARTIS	1349878	November 29, 2016
United States	NOVARTIS	4986124	June 28, 2016
United States	NOVARTIS	6990442	February 28, 2023

European Union	NOVARTIS	304857	June 25, 1999
European Union	NOVARTIS	013393641	March 17, 2015
United Kingdom	NOVARTIS	UK00801349878	November 17, 2017
United Kingdom	NOVARTIS	UK00900304857	June 25, 1999
Switzerland	NOVARTIS	695879	November 29, 2016
Switzerland	NOVARTIS	748933	June 29, 2020

The Complainant also owns numerous domain names composed of either its “NOVARTIS” mark alone or in combination with other terms. For example,

Domain Name	Creation Date	Description/Use
<novartis.com>	April 2, 1996	Official website for Novartis AG and its products/services
<novartispharma.com>	October 27, 1999	Official website for Novartis AG, used to inform about its products/services

The Complainant uses these domain names to resolve to its official websites through which it informs Internet users and potential consumers about its “NOVARTIS” trademark and its related products and services.

FACTUAL BACKGROUND

The Novartis Group 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 was created in 1996 through a merger of two other companies Ciba-Geigy and Sandoz. It is the holding company of the Novartis Group. Its headquarter is in Switzerland.

In 2024, the Complainant achieved net sales of USD 50.3 billion, and total net income of USD 11.9 billion. It currently employs approximately 76,000 full time employees.

The Complainant’s products are manufactured and sold in many countries worldwide, including in the United States, United Kingdom, and Switzerland, where it has an active presence through associated companies.

The Complainant also founded the Novartis Venture Fund in 1996. This is a Switzerland based investment organisation that focuses on the healthcare sector and develops novel therapeutics and platforms. It was created to foster innovation by investing in innovative life science companies, and currently manages over USD 750 million in committed capital and more than 40 portfolio companies across North America and Europe. The Complainant owns the domain name <nvfund.com> through which internet users are informed about the Novartis Venture Fund. It also manages other funds, such as the Novartis Pension Fund, and offers external funding opportunities.

The Complainant enjoys a strong presence online via its social media platforms.

The disputed domain name <novartisfund.site> was registered on March 18, 2025.

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).

To satisfy this element, the Complainant must demonstrate that the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights.

The test for confusing similarity involves a straightforward comparison between the complainant's trademark and the disputed domain name. This typically involves a side-by-side comparison of the disputed domain name and the textual components of the trademark to assess whether the mark is recognisable within the disputed domain name.

The Complainant contends that the disputed domain name is confusingly similar to the Complainant's trademark "NOVARTIS" for the following reasons:

- The Complainant's registered trademark "NOVARTIS" is a well-known trademark in numerous jurisdictions all over the world.
- The disputed domain name incorporates this well-known trademark entirely along with the relevant term "fund", which is directly referring to the Complainant's business.

The Panel accepts that the Complainant is also involved in managing and operating investments and external funding opportunities under and by reference to its trademark "NOVARTIS" including describing it as the "Novartis Venture Fund".

The "NOVARTIS" trademark is clearly recognisable within the disputed domain name. The mere addition of descriptive term "fund" in the disputed domain name would not prevent a finding of confusing similarity to the trademark "NOVARTIS". See paragraph 1.8 WIPO Jurisprudential Overview 3.0; Auchan Holding SA v. WhoisGuard Protected / Professeur Sam Lami, WIPO Case No. D2021-0985.

It is also trite to state that the addition of the gTLD ".site" extension does not add any distinctiveness to the disputed domain name and will be disregarded for the purposes of considering this ground. See Rollerblade, Inc. v. Chris McCrady, WIPO Case No. D2000-0429; Can Pro Pet Products LTD. v. Matthew Dweck, WIPO Case No. D2020-0615; Sanofi v. Aamir Hitawala, WIPO Case No. D2021-1781.

The Panel considers that the disputed domain name is confusingly similar to the Complainant's trademark "NOVARTIS" and this ground is made out.

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).

A complainant must demonstrate that the respondent lacks rights or legitimate interests in the disputed domain name. A complainant is required to establish a prima facie case, after which the burden of proof shifts to the respondent to rebut it.

Rights or legitimate interests may arise if the respondent can show:

1. it offers bona fide offering of goods/services before notice of the dispute;
2. it is commonly known by the domain name; or
3. there is legitimate non-commercial or fair use without intent for commercial gain.

If the respondent fails to do so, the complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy. See WIPO Case No. D2003-0455, Croatia Airlines d.d. v. Modern Empire Internet Ltd.

The Complainant contends that the Respondent has no rights in the disputed domain name. In support of its contentions, the Complainant asserts the following matters:

- The Complainant has never authorised the Respondent to use the "NOVARTIS" trademark, nor is there evidence of any commercial relationship, license, or affiliation between the parties.
- The Respondent's registration of a domain name incorporating the Complainant's well-known trademark "NOVARTIS" in its entirety, combined with the term "fund" (directly tied to the Complainant's business activities), suggests the Respondent's intention to exploit the Complainant's "NOVARTIS" trademark's reputation rather than a legitimate interest to use it.
- There is no evidence that the Respondent is commonly known by the disputed domain name. Searches for the terms "novartisfund" or "novartis fund" yield results exclusively related to the Complainant.
- The disputed domain name resolves to an inactive page since its registration. Passive holding of a domain name containing a

well-known trademark, without evidence of demonstrable preparations for legitimate non-commercial or fair use, supports a finding of the Respondent having no rights or legitimate interests in the disputed domain name.
- The Respondent failed to respond to the Complainant's cease-and-desist letters sent on March 20, 2025, April 1, 2025, and April 7, 2025. This silence, coupled with the absence of any plausible justification for registration, further undermines claims of legitimate interests.
- The combination of the "NOVARTIS" trademark with the term "fund" (directly referencing the Complainant's business activities) creates a likelihood of confusion and implies an intent to misleadingly associate with the Complainant. Such use cannot constitute bona fide or fair use under the Policy.

No challenge has been made by the Respondent to the Complainant's contentions and assertions as it has not filed any administrative compliant response.

Given the evidence adduced by the Complainant of its extensive portfolio of trademarks and wide business networks which the Panel accepts as evidencing the strength of its reputation, the Panel accepts and finds that the Respondent has no rights or legitimate interests in the disputed domain name.

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).

There are two elements that must be satisfied – registration and use in bad faith.

Bad faith is assessed based on the totality of circumstances, including non-exhaustive factors under paragraph 4(b) of the Policy, such as:

1. Intent to sell the domain name for profit exceeding out-of-pocket costs.
2. Pattern of conduct to prevent trademark owners from reflecting their marks in domain names.
3. Disrupting a competitor's business.
4. Intentionally attracting users for commercial gain by creating confusion with the complainant's mark.

Registration in bad faith

The evidence shows, and the Panel accepts, that the Complainant's trademark "NOVARTIS" is well-known all over the world. The Complainant's trademark was clearly registered prior to the registration of the disputed domain name.

The Panel also accepts the Complainant's assertion that it never authorised the Respondent to use the "NOVARTIS" trademark nor to register the disputed domain name.

Given the Complainant's world-wide reputation, it is highly unlikely that the Respondent did not know of the Complainant's "NOVARTIS" trademark" and its business, including the Novartis Venture Fund, when it registered the disputed domain name.

The Panel considers that either through actual or constructive knowledge, the Respondent would have learnt or inevitably learnt about the Complainant, its well-known trademark, and its business even by conducting a simple online search. See Teamreager AB v. Muhsin E.Thiebaut, Walid Victor, WIPO Case No. D2013-0835, Amundi Asset Management v. tang xiao ming, WIPO Case No. D2019-2744.

The Panel considers that the inclusion of the term "fund" is directly tied to the Complainant's business activities, which indicates targeted registration to exploit the Complainant's "NOVARTIS" trademark.

The Panel is prepared to draw the adverse inference that the Respondent is most likely intentionally trying to confuse consumers by creating a similarity between the disputed domain name and the Complainant, particularly in its funds business.

By doing so, the Respondent is seeking to benefit from the Complainant's established reputation and potentially harm their business by diverting traffic to a different website. This conduct not only infringes the Complainant's trademark rights, but also demonstrates a lack of good faith in the registration of the disputed domain name. Thus, the addition of term "fund" to the "NOVARTIS" trademark in the disputed domain name is a clear sign of registration in bad faith.

Use in bad faith

Passive holding of a domain name may constitute bad faith where the circumstances suggest no plausible legitimate use. It is, therefore, open for a panel, in certain circumstances, to find that inactivity by a respondent amounts to the domain name being used in bad faith. See Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003.

Here, the evidence shows that the disputed domain name is passively held. It does not resolve to an active website but to an inactive page. The Respondent has not filed an administratively compliant response to the Amended Complaint. Therefore, there is no credible justification for the passive holding.

The Panel is prepared to draw the inference that there is no actual or contemplated use of the disputed domain name in good faith.

The MX records linked to the disputed domain name also suggest potential use of fraudulent emails, creating a risk of phishing or impersonation. This coupled with the Complainant's evidence that the Respondent provided a mismatched address (i.e., described as City: London, Country: Switzerland) and a USA phone number suggest false details were provided to conceal identity and evade accountability. See Action Instruments, Inc. v. Technology Associates, WIPO Case No. D2003-0024, Aulbach Lizenz AG v. Victorio Naturano, Case No. D2010-1394.

Accordingly, the Panel accepts that the disputed domain name was registered by the Respondent and used in bad faith.

PROCEDURAL FACTORS

Language of proceedings request

The Respondent's seat or residence appears to be Switzerland. The Complainant requests that the English language should be the language of the proceeding.

The language of the Registration Agreement is English, as confirmed by the Registrar.

Rule 11(a) of the UDRP rules states:

Unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

In conducting the administrative proceeding, the Panel is required to ensure under Rule 10 of the UDRP rules that the Parties are treated with equality and be given a fair opportunity to present their case.

The Respondent has not filed any administratively compliant response to the Complainant's Amended Complaint.

In the circumstances, the Panel accepts the Complainant's request and considers that it is appropriate to proceed to determine the proceeding in the English language.

Notification of proceedings to the Respondent

When forwarding a Complaint, including any annexes, electronically to the Respondent, paragraph 2 of the Rules states that CAC shall employ reasonably available means calculated to achieve actual notice to the Respondent.

Paragraphs 2(a)(i) to (iii) set out the sort of measures to be employed to discharge CAC's responsibility to achieve actual notice to the Respondent.

On May 15, 2025 the CAC by its non-standard communication stated as follows (omitting irrelevant parts):

- That the CAC was not able to send the written notice to the Respondent as the address provided by the Registrar in Registrar verification: "London, NW74 3LC, London, Switzerland" does not exist. The postal service provider was not able to deliver a written notice to such address. No other address for correspondence was found on the disputed domain name.
- As far as the e-mail notice is concerned, CAC received a confirmation that the e-mail notice sent to <postmaster@novartisfund.site> was returned back non-delivered as the e-mail address had permanent fatal errors. The e-mail notice was also sent to <ikorebizz@gmail.com>, but CAC never received any proof of delivery or notification of non-delivery.
- No further e-mail address could be found on the disputed site.
- The Respondent never accessed the online platform.

Given the reasonable measures employed by CAC as set out in the above non-standard communication, 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 owns the international trademark "NOVARTIS" and the domain names <novartis.com>, <novartispharma.com>, <nvfund.com> and others which are used in connection with its goods or services.

The Respondent registered the disputed domain name <novartisfund.site> on March 18, 2025. The disputed domain name is passively held and not resolving to any active website.

The Complainant challenges the Respondent's registration of the disputed domain name under paragraph 4(a)(i) of the Policy and seeks relief that the disputed domain name be transferred to the Complainant.

The Respondent failed to file any administratively compliant response.

For the reasons articulated in the Panel's reasons above, the Complainant has satisfied the Panel of the following:

(a) The disputed domain name is confusingly similar to the Complainant's well-known trademark "NOVARTIS".

(b) The Respondent has no rights or legitimate interests in respect of the disputed domain name.

(c) The disputed domain name has been registered and is being used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **novartisfund.site**: Transferred

PANELLISTS

Name	**William Lye OAM KC**

DATE OF PANEL DECISION 2025-05-16

Publish the Decision