Decision for dispute CAC-UDRP-107631

Case number	CAC-UDRP-107631
Time of filing	2025-06-03 09:49:50
Domain names	novartis-ma.top, novartisma-apigw.top

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Novartis AG

Complainant representative

Organization	Abion GmbH

Respondent

Name	mei guo qiang

OTHER LEGAL PROCEEDINGS

The Panel is unaware of any pending or concluded legal proceedings concerning the domain names <novartis-ma.top> and <novartisma-apigw.top> (hereinafter referred to as 'the disputed domain names').

IDENTIFICATION OF RIGHTS

The Complainant, Novartis AG, asserts rights to several registered trade marks, notably:

• International trade mark registration no. 663765, registered on 1 July 1996, designating inter alia Morocco, for the word mark NOVARTIS, in classes 1, 2, 3, 4, 5, 7, 8, 9, 10, 14, 16, 17, 20, 22, 28, 29, 30, 31, 32, 40, and 42 of the Nice Classification; and

• International trade mark registration no. 1349878, registered on 29 November 2016, designating inter alia China and Morocco, for the word mark NOVARTIS, in classes 9, 10, 41, 42, and 45 of the Nice Classification.

Such trade marks shall collectively be referred to as 'the Complainant's trade mark' or 'the trade mark NOVARTIS'.

Additionally, the Complainant holds multiple domain names incorporating the term 'novartis', most notably <novartis.com>, registered in 1996, and <novartis.ma>, registered in 2020.

The disputed domain names <novartis-ma.top> and <novartisma-apigw.top> were registered on 14 March 2025 and 15 April 2025, respectively. Presently, the disputed domain names do not currently resolve to active websites (hereinafter referred to as 'the Respondent's websites').

FACTUAL BACKGROUND

A. Complainant's Factual Assertions

The Complainant, established in 1996 through a merger of the companies Ciba-Geigy and Sandoz, is a leading global pharmaceutical enterprise, reporting net sales of USD 50.3 billion in 2024. The Complainant possesses trade mark rights across numerous jurisdictions, including Morocco and China.

B. Respondent's Factual Assertions

The Respondent has failed to submit a Response in this UDRP proceeding, thereby leaving the assertions advanced by the Complainant unchallenged.

PARTIES CONTENTIONS

A. Complainant's Submissions

A.1 Preliminary Issue - Language of the Proceeding Request

The Complainant submitted the Complaint in English, while the Registrar's verification confirms that the registration agreement for each dispute domain name is in Chinese. Pursuant to paragraph 11 of the UDRP Rules, the Complainant requests that this UDRP proceeding be conducted in English for following reasons:

• The Registration Agreements are available in English on the Registrar's website;

• Translation would incur substantial costs and lead to unwarranted delays;

• As a Swiss entity, the Complainant finds English to be a neutral and accessible language, particularly given the Respondent's Chinese background;

• The disputed domain names are registered using Latin characters, indicating an intent to attract English-speaking users;

• The disputed domain names incorporated the Complainant's trade mark and the geographical term 'ma' (designating Morocco) and the term 'apigw', which is an English acronym for the term 'application programming interface (API) gateway' in English; and

• The adoption of English would ensure fairness and efficiency in the proceedings.

A.2 Substantive grounds

The Complainant's arguments may be summarised as follows:

A.2.1 The disputed domain names are identical or confusingly similar to a trade mark in which the Complainant has rights

The disputed domain names <novartis-ma.top> and <novartisma-apigw.top> fully incorporate the trade mark NOVARTIS. The additions of 'ma' and 'apigw' do not diminish the recognisability of the trade mark NOVARTIS. The geographical reference 'ma' indicates Morocco, where the Complainant has an established business presence. Moreover, the term 'apigw' relates to application programming interfaces, suggesting that the Respondent is intentionally leveraging the Complainant's established market reputation. Collectively, these elements illustrate that the disputed domain names evoke the trade mark NOVARTIS, creating a likelihood of confusion among Internet users.

In addition, the generic Top-Level Domain ('TLD') <.top> is a standard registration requirement and may be disregarded in this UDRP Policy assessment.

A.2.2 The Respondent has no rights or legitimate interests in respect of the disputed domain names

The Complainant has had no previous dealings with the Respondent, who holds no rights to use the trade mark NOVARTIS. Thorough searches reveal that the Respondent is not known by the disputed domain names, further underscoring the absence of legitimate interests. Attempts to engage the Respondent via cease-and-desist letters elicited no response, reinforcing this assertion.

A.2.3 The Respondent registered and is using the disputed domain names in bad faith

The Complainant's trade mark registrations predate the registration of the disputed domain names, reflecting a lack of good faith on the part of the Respondent. The incorporation of the trade mark NOVARTIS, coupled with terms suggesting a connection to the Complainant, indicates a deliberate intent to mislead Internet users. Furthermore, the current inactive status of the websites associated with the disputed domain names aligns with a passive holding strategy, which is indicative of bad faith as established in prior UDRP decisions. Additionally, the Complainant asserts that the Respondent has configured the disputed domain names with an MX (mail exchange) record, implying a potential intention to engage in e-mail phishing or other fraudulent activities.

A.2.4 Relief sought

The Complainant requests the transfer of the disputed domain names.

B. Respondent's Submissions

The Respondent has provided no substantive defence in this UDRP proceeding.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown that the disputed domain names are identical or confusingly similar to a trade mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the UDRP 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 names (within the meaning of paragraph 4(a)(ii) of the UDRP Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names have been registered and are being used in bad faith (within the meaning of paragraph 4(a)(iii) of the UDRP Policy).

PROCEDURAL FACTORS

1. Language of the Decision

In accordance with Rule 11 of the UDRP Rules, the Panel has discretion to determine the appropriate language of the UDRP proceeding. The Panel applied the Writera test from CAC Case No. 104144, considering the following factors:

(i) the only identifiable language in each of the disputed domain name strings is English, with the use of Latin characters;

(ii) the Complainant is incorporated in Switzerland; the Respondent appears to reside in China, making English a neutral choice;

(iii) the Respondent has shown no inclination to participate in this UDRP proceeding;

(iv) the Panel has fulfilled its obligations under Rule 10 (c) of the UDRP Rules; and

(v) Considering the balance of convenience, the decision in English is warranted, enabling the Complainant to fully understand the case outcome without translation issues, while not disadvantaging the Respondent.

Based on these factors, the Panel has determined to issue its ruling in English.

2. Miscellaneous

The Panel confirms that all procedural requirements under the UDRP have been duly met, with no grounds preventing a decision from being issued.

PRINCIPAL REASONS FOR THE DECISION

A. Applicable Legal Framework and Burden of Proof

Pursuant to Rule 15 of the UDRP Rules, the Panel shall base its determination on the statements and documents submitted, together with the UDRP Policy, UDRP Rules, and any pertinent rules and principles of law. The Complainant must establish three essential elements under paragraph 4(a) of the UDRP Policy:

i. The disputed domain names are identical or confusingly similar to a trade mark or service mark in which the Complainant has rights;

ii. The Respondent has no rights or legitimate interests in respect of the disputed domain names; and

iii. The disputed domain names have been registered and are being used in bad faith.

These elements collectively constitute 'the requirements of the UDRP Policy'. The standard of evidence in UDRP proceedings operates on the balance of probabilities, and the Panel will assess each requirement in turn.

B. Identical or Confusingly Similar

The Panel finds that the Complainant possesses UDRP-relevant rights in the registered trade mark NOVARTIS since at least 1996. The disputed domain name <novartis-ma.top> and <novartisma-apigw.top> wholly incorporate the trade mark NOVARTIS. The additional terms 'ma', suggesting 'Morocco', and 'apigw', an acronym for 'application programming interface (API) gateway', do not materially affect recognition of the trade mark NOVARTIS. Furthermore, the inclusion of the TLD (<.top>) does not diminish this similarity, thereby fulfilling the first requirement of the UDRP Policy.

C. Rights or Legitimate Interests

The Respondent has defaulted in this UDRP proceeding, enabling the Panel to draw adverse inferences from the Respondent's silence (Rule 14 (b) of the UDRP Rules).

Based on the available record, the Panel concludes that the Respondent has not been commonly known by the disputed domain names and has not been authorised by the Complainant to use them. The Respondent has made no use of the disputed domain names for bona fide offerings of goods or services, nor for legitimate noncommercial or fair use.

The Panel therefore finds that the Complainant has satisfied the second requirement of the UDRP Policy.

D. Registered and Used in Bad Faith

The Panel determines that the Respondent registered and has used the disputed domain names with full knowledge of, and intention to target, the Complainant. The case circumstances strongly support a presumption of bad faith under the UDRP Policy: (i) the worldwide reputation of the Complainant's trade mark; (ii) the clear similarity between the disputed domain names and the Complainant's trade mark; (iii) the Respondent's failure to counter the Complainant's prima facie case; (iv) the Respondent's attempt to gain a reputational advantage by redirecting Internet users for likely fraudulent purposes; and (vi) the implausibility of any good faith use of the disputed domain names. The Respondent is therefore deemed to have engaged in the conduct described in paragraph 4(b)(iv) of the UDRP Policy.

In view of the above, the Panel finds that the Complainant has satisfied the third and final requirement of the UDRP Policy.

E. Decision

For the reasons stated, and in accordance with paragraph 4(a) of the UDRP Policy and Rule 15 of the UDRP Rules, the Panel orders that the disputed domain names <novartis-ma.top> and <novartisma-apigw.top> 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-ma.top**: Transferred
2. **novartisma-apigw.top**: Transferred

PANELLISTS

Name	**Yana Zhou**

DATE OF PANEL DECISION 2025-06-30

Publish the Decision