Decision for dispute CAC-UDRP-107752

Case number	CAC-UDRP-107752
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Domain names	novartisbiopharma.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Novartis AG

Complainant representative

Organization	Abion GmbH

Respondent

Name	Giuseppe Oliva

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 the owner of the registered well-known trademark NOVARTIS® in numerous jurisdictions all over the world, including in the United States, such as but not limited to:

- IR 663765, NOVARTIS, Registration Date: July 1, 1996;
- IR 1544148 NOVARTIS, designating the USA, Registration Date: June 29, 2020;
- US 4986124 NOVARTIS, Registration Date: June 28, 2016;
- US 6990442 NOVARTIS, Registration Date: February 28, 2023;
- EUTM 304857 NOVARTIS, Registration Date: June 25, 1999.

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. Novartis AG (the “Complainant”), with headquarters in Switzerland, which was created in 1996 through a merger of two other companies Ciba-Geigy and Sandoz, is the holding company of the Novartis Group. In 2024, The Novartis Group achieved net. sales of USD50.3 billion while total net. income amounted to USD11.9 billion with approximately 76 000 full-time equivalent employees as of December 31, 2024. The Novartis Group publishes their Annual Reports with detailed information about their activities globally every year and these can

be found online.

The Complainant's products are manufactured and sold in many countries worldwide, including in the United States, where it has an active presence through associated companies and subsidiaries, and where it has been playing an active role on the local markets and societies. The Complainant is the owner of the registered well-known trademark NOVARTIS® which predates the registration of the Disputed Domain Name <NOVARITSBIOPHARMA.COM>, which was registered on June 3, 2025.

Previous UDRP panels have stated that the NOVARTIS® trademark is well-known (see Novartis AG v. Amartya Sinha, Global Webs Link, Novartis RO, WIPO Case No. D2020-3203). The Complainant owns numerous domain names composed of either its trademark 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 NOVARTIS® mark and its related products and services. The Complainant also enjoys a strong presence online via its official social media platforms.

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 Complainant has requested that English be determined to be the language of proceedings in this case, arguing that to the best of the Complainant's knowledge, the language of the Registration Agreement of the Disputed Domain Name is English and has filed the Registrar's Domain Name Terms of Use to illustrate this point and has submitted the complaint in English.

In accordance with Paragraph 11 of the UDRP Rules, unless otherwise agreed by the parties, the language of the proceeding is the language of the registration agreement, subject to the authority of the panel to determine otherwise, exercising its "discretion in the spirit of fairness to both parties, which pursuant to paragraph 10(b) of the Rules have to be treated with equality, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs" (see Carrefour v. Contact Privacy Inc. Customer 1242379769 / Le Berre, WIPO Case No. D2018-1552). In such cases, Panels have also found that a language other than that of the Registration Agreement may be used. See Section 4.5, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, see also Lovehoney Group Limited v yan zhang, CAC 103917 (CAC August 17, 2021) (finding it appropriate to conduct the proceeding in English under Rule 11, despite Japanese being designated as the required language in the registration agreement).

Considering the fact that the respondent appears to be located in Seattle, Washington, United States, and the telephone number given has an international dial code for the USA, the Panel finds that there is no reason to doubt that the Respondent understands the English language.

Nevertheless, the Panel finds that it would be inequitable and an undue burden on the Complainant to require a translation of the Complaint which would be unjustified under the particular circumstances of this case. Accordingly, the Panel finds that in view of the specific circumstances of this case, and in the absence of a Response, the Panel determines that the language of the proceeding shall be English.

The Panel is therefore 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

According to Paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements to obtain an order that the disputed domain name should be transferred or cancelled:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

(ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and

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

The Panel has examined the evidence available to it and has come to the following conclusion concerning the satisfaction of the three elements of paragraph 4(a) of the Policy in these proceedings:

EARLIER RIGHTS

The Complainant has established rights in the name NOVARTIS. The disputed domain name <NOVARTISBIOPHARMA.COM> is found to be confusingly similar to the Complainant's trademark and company name. This finding is based on the settled practice in evaluating the existence of a likelihood of confusion of:

1. disregarding the top-level suffix in the domain names (i.e. ".COM") in the comparison; and
2. finding that the simple combination of a trademark (i.e. NOVARTIS) and a generic or geographic term or abbreviation would not be considered sufficient to distinguish a domain name from a trademark. In this case, the generic term "BIOPHARMA" which is descriptive for one of the fields of activity of the Complainant, does not prevent a finding of confusing similarity.

The disputed domain name is therefore found to be confusingly similar to the earlier rights in the name NOVARTIS, and the Panel concludes that the Complainant has satisfied the requirement under paragraph 4(a)(i) of the Policy.

NO RIGHTS OR LEGITIMATE INTERESTS

The onus to make out a prima facie case that the Respondent lacks rights or legitimate interests is placed on the Complainant. However, once such a prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the disputed domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

The Respondent has no rights or legitimate interests in the disputed domain name. The Complainant and the Respondent have not had any previous relationship other than previous alternative dispute resolution proceedings related to the very name NOVARTIS.

The Complainant has never granted the Respondent any rights to use the NOVARTIS trademark in any form, including in the disputed domain name. There is no evidence before the Panel indicating that the Respondent is commonly known by the disputed domain name. The disputed domain name does not resolve to any active content.

There is no available evidence that the Respondent engages in, or has engaged in any activity or work, i.e., legitimate or fair use of the disputed domain name, or that would demonstrate a legitimate interest in the disputed domain name, so that there is nothing that could be interpreted as rights or legitimate interests of the Respondent. Since the Respondent has not responded, the Respondent has also failed to put forward any arguments at all which could change this finding.

In the absence of use of the disputed domain name in connection with a bona fide offering of goods and services, the above demonstrates the Respondent's absence of rights or legitimate interests in respect of the disputed domain name.

The Panel therefore concludes that the Respondent did not refute the Complainant's prima facie case and has not established any rights or legitimate interest in the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy). The Complainant has therefore also satisfied the requirement under paragraph 4(a)(ii) of the Policy.

BAD FAITH

The Panel finds that the Complainant has established that the disputed domain name was registered by the Respondent and is being used by the Respondent in bad faith.

The name NOVARTIS is distinctive and well known in numerous countries around the world for the services offered by the Complainant and the Respondent is aware of this from previous proceedings. The Respondent has copied the Complainant's trademark "NOVARTIS" in the disputed domain name.

As in other cases, where 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, this must be considered here.

Having reviewed this case, the Panel notes the distinctiveness and the reputation of the Complainant's trademark on the one hand and the composition of the disputed domain name on the other but especially of the active prior knowledge of the Respondent of the Complainant's rights in the name. Under these circumstances of this case, the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Consequently, there appears to the Panel to be no possible good faith reason for the Respondent to have selected the disputed domain name, and there are demonstrable indications of bad faith present in this case.

The Panel therefore concludes that the Respondent has registered and is using the disputed domain name in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy). The Complainant has therefore also satisfied the requirements under paragraph 4(a)(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. **novartisbiopharma.com**: Transferred

PANELLISTS

Name	**Udo Pfleghar B.A. (Melb.)**

DATE OF PANEL DECISION 2025-08-25

Publish the Decision