

ADMINISTRATIVE PANEL DECISION

Novo Nordisk A/S v. Perfect Privacy, LLC / Jan Everno
Case No. D2022-1801

1. The Parties

The Complainant is Novo Nordisk A/S, Denmark, represented by White & Case, LLP, United States of America (“USA”).

The Respondent is Perfect Privacy, LLC, USA / Jan Everno, USA.

2. The Domain Name and Registrar

The disputed domain name <novocorp.net> is registered with Riptide Domains, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 18, 2022. On May 19, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 20, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on May 23, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on May 28, 2022.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on May 31, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 20, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 22, 2022.

The Center appointed Dr. Clive N.A. Trotman as the sole panelist in this matter on July 1, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the

Rules, paragraph 7.

4. Factual Background

The Complainant is a global pharmaceutical and healthcare company. The Complainant traces its foundation to 1923 and now has annual sales in the region of USD 20 billion across some 168 countries. The Complainant holds trademark registrations for NOVO standing alone or in a number of combinations, including:

NOVO, International Trademark, registered September 1, 1997, registration number 686555, in classes 1, 5, 10, and 42;

NOVO, United States Patent and Trademark Office (USPTO), principal register, registered June 19, 2018, registration number 5494605, in class 5;

NOVO NORDISK, International Trademark, registered March 2, 2009 registration number 1005904, in classes 5, 10, 42, and 44;

NOVO NORDISK, USPTO, principal register, registered March 12, 1991, registration number 1637355, in classes 5 and 10;

NOVOCARE, International Trademark, registered November 8, 2017, registration number 1412047, in classes 9, 35, 41, and 44;

NOVOCARE, USPTO, principal register, registered October 2, 2018, registration number 5574983, in classes 36 and 44.

The Complainant had previously owned the disputed domain name for 22 years, but inadvertently failed to renew it in March 2022, whereupon it was registered by the Respondent in April 2022. The disputed domain name has since resolved to a website (the "Respondent's website") offering links to other websites related to a variety of businesses. The Respondent has not provided any background information but has been the unsuccessful respondent in some 19 previous proceedings under the Policy since 2014.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical or confusingly similar to the Complainant's trademark. The disputed domain name contains the Complainant's trademark element NOVO, whereas the additional descriptive term "corp", meaning corporation, is non-distinguishing. The disputed domain name could erroneously be confused as one of the Complainant's family of trademarks. The generic Top-Level Domain ("gTLD") ".net" should by convention be disregarded.

The Complainant says the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has no connection with the Complainant and has not been authorised to register the disputed domain name. There is no record of the Respondent having registered or applied for any trademark similar to the disputed domain name. The website to which the disputed domain name has resolved is a source of links to other websites, under headings related to business funding, car sales, and other items, which cannot be accepted as evidence of any right or legitimate interest in the disputed domain name.

The Complainant says the Respondent's holding of the disputed domain name behind a privacy shield, showing contact details other than its own, may be supporting evidence of the Respondent not making a legitimate use of the disputed domain name.

The Complainant says that the Respondent has engaged in a pattern of the registration of domain names in which it has been found in previous decisions under the Policy to have no rights or legitimate interests. The Complainant has detailed 19 such instances.

The Complainant further contends that the disputed domain name was registered and is being used in bad faith.

The Complainant had previously owned and used the disputed domain name for 22 years since March 2000, but had inadvertently allowed the registration to lapse in March 2022. The Respondent registered the disputed domain name in April 2022.

The Respondent's use of the disputed domain name is for the generation of click-through traffic, whereby Internet users, attracted by the association of the disputed domain name with the Complainant, or already conversant with it from previous use, visit the Respondent's website and are presented with a variety of links to sponsored websites.

The Complainant attempted to contact the Respondent on four occasions and made offers, well in excess of registration costs, to buy back the disputed domain name. No reply has been received.

The Complainant says the Respondent has engaged in a pattern of the registration of domain names in bad faith, and details the bad faith aspects of the same 19 previous decisions concerning the Respondent as referred to below under Rights or Legitimate Interests.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy states that the Respondent is required to submit to a mandatory administrative proceeding in the event that the Complainant asserts to the applicable dispute-resolution provider, in compliance with the Rules, that:

“(i) your domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;

(ii) you have no rights or legitimate interests in respect of the domain name; and

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

The Complainant has made the relevant assertions as required by the Policy. The dispute is properly within the scope of the Policy and the Panel has jurisdiction to decide the dispute.

A. Identical or Confusingly Similar

The Panel is satisfied that the Complainant has the requisite rights under the Policy in the trademark NOVO and in trademarks in which the element NOVO features prominently.

The disputed domain name is “novocorp” plus “.net”, of which the gTLD “.net” may be disregarded in the determination of confusing similarity. The disputed domain name therefore comprises “novo”, being identical to the Complainant's distinctive trademark NOVO (followed by the term “corp”, which is a universally recognised abbreviation, in the context, for “corporation”). The Panel finds the disputed domain name to be confusingly similar to all those of the Complainant's trademarks listed in section 4 above, and that the

additional element “corp” does not prevent a finding of confusing similarity. Accordingly the Panel finds for the Complainant under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant has stated a *prima facie* case to the effect that the Respondent has no connection with the Complainant, has not been authorised to register the disputed domain name, and has no rights or legitimate interests in respect of the disputed domain name.

Paragraph 4(c) of the Policy provides for the Respondent to contest the Complainant’s *prima facie* case under paragraph 4(a)(ii) of the Policy and to establish rights or legitimate interests in a disputed domain name by demonstrating, without limitation:

“(i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or

(ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or

(iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue”.

The Complainant’s evidence is that it has made enquiries to exclude the possibility of the Respondent being the registrant of any trademark similar to the disputed domain name. According to the screen capture evidence, the Respondent’s website operates merely to direct visitors to sponsored links and is not in use for a *bona fide* supply of goods or services within the meaning of the Policy or for any other legitimate noncommercial or fair use.

The Respondent has not asserted any rights or legitimate interests in the disputed domain name, or responded at all. The Panel finds for the Complainant under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Complainant is required to prove under paragraph 4(a)(iii) of the Policy that the disputed domain name has been registered and is being used in bad faith. Paragraph 4(b) of the Policy lists four alternative circumstances that shall be evidence of the registration and use of a domain name in bad faith by a respondent, namely:

“(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location”.

The provisions of paragraph 4(b) of the Policy are without limitation and bad faith may be found alternatively by the Panel.

Screen captures produced in evidence by the Complainant show how the Respondent's website was in use on May 17, 2022. The screen captures show what appear to be parking pages headed "NOVOCORP.NET" and populated with boxes with headings, such as "Business Funding", "Car Shop Used Cars", and "Llc Business". Each box has the symbol ">" commonly used as a pointer to further content; it is evident, in the context, that the boxes are link headings to links of the stated category. Further pages with "VISIT WEBSITE" boxes refer to a variety of business matters such as "CONSIDER CERTIFIED BY VOLVO - SUPERIOR PERFORMANCE & VALUE - RIGOROUSLY INSPECTED".

On the totality of the evidence, it may reasonably be concluded that the disputed domain name has been used by the Respondent to attract Internet visitors to the Respondent's website, by reliance on the fame of the Complainant's trademarks, or by reliance on customary use of the disputed domain name by clients and contacts of the Complainant during the period of 22 years when the Complainant owned it, *i.e.*, until March 2022. It may further reasonably be concluded that the Respondent's website is populated with sponsored links placed by the provider of an advertising service according to the widely prevalent "pay-per-click" business model, whereby some of the advertising revenue is shared with the Respondent. In the terms of paragraph 4(b)(iv) of the Policy, on the evidence and on the balance of probabilities, the Respondent is found to have used the disputed domain name with intent to create confusion with the Complainant's trademarks for the purpose of attracting Internet users for the Respondent's commercial gain, constituting use in bad faith. On the evidence, the Respondent is further found to have registered the disputed domain name for the bad faith purpose for which it has been used.

After the Complainant's ownership of the disputed domain name was allowed to lapse inadvertently in March 2022, the Respondent acquired it some five weeks later. Whether or not the Respondent received the Complainant's four offers to buy it back, it may nevertheless be reasonably concluded in all the circumstances that the Respondent, on acquiring the lapsed domain name of a world-class pharmaceuticals company, must have known, or ought to have known of the prior registration and its holder (namely, the Complainant), and moreover that by acquiring the registration it was blocking the Complainant from re-registering a domain name used by the Complainant as a reflection of its trademark. Furthermore the 19 cases detailed by the Complainant in which transfer has been awarded against the Respondent (generally in conjunction with another entity) establish a pattern of such conduct, which has been the subject of comment before ("Respondent has shown a pattern of such preclusive registrations"; *Sam's Flaming Grill Inc. v. Perfect Privacy LLC / Jan Everno, The Management Group II*, WIPO Case No. [D2019-2135](#)). The Panel finds the disputed domain name to have been registered in bad faith within the contemplation of paragraph 4(b)(ii) of the Policy.

Accordingly registration and use of the disputed domain name in bad faith are found in the terms of paragraph 4(a)(iii) of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <novocorp.net> be transferred to the Complainant.

/Clive N.A. Trotman/

Dr. Clive N.A. Trotman

Sole Panelist

Date: July 15, 2022