Decision for dispute CAC-UDRP-100776

Case number	CAC-UDRP-100776
Time of filing	2014-03-17 14:35:16
Domain names	Arcelormittaldistributionsolutionsukltd.com

Case administrator

Name	Lada Válková (Case admin)

Complainant

Organization	ArcelorMittal S.A.

Complainant representative

Organization	Nameshield (Anne Morin)

Respondent

Name	John Smeal

OTHER LEGAL PROCEEDINGS

The panel is not aware of the existence of other proceedings concerning the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the international trademark ARCELORMITTAL, with trademark registration nº 947686, registration date August 03, 2007, expiration date August 03, 2017,and International classification of goods and services for trademark registration (Nice classification) 06, 07, 09, 12 19, 21, 39, 40, 41, 42.

The Complainant is also owner of the following domain names: “Arcelormittal.BIZ”, “arcelormittal.co.uk”, “arcelormittal.com”, “ARCELORMITTAL.COM”, “ARCELORMITTAL.MOBI”, “arcelormittal.net”, “ARCELORMITTAL.NET”, “ARCELORMITTAL.ORG”, “ARCELOR-MITTAL.BIZ”, “arcelor-mittal.com”, “ARCELOR-MITTAL.COM”, “ARCELOR-MITTAL.INFO”, “arcelor-mittal.net”, “ARCELOR-MITTAL.NET”, and “ARCELOR-MITTAL.ORG”.

All these domain names were registered prior to the registration of the disputed domain name “arcelormittaldistributionsolutionsukltd.com”.

FACTUAL BACKGROUND

The Complainant, ARCEROLMITTAL S.A. is the largest steel producing company in the world and is the market leader in steel for use in automotive, construction, household appliances and packaging with operations in more than 60 countries. It holds

sizeable captive supplies areas of raw materials and operates extensive distribution networks.

The company ARCELORMITTAL S.A. was established in 2006, a result of the takeover and merger of ARCELOR by MITTAL STEEL.

ARCELORMITTAL DISTRIBUTION SOLUTIONS UK LTD handles the downstream activity of ARCELORMITTAL S.A. This subsidiary consists of eight areas throughout the United Kingdom. It supplies a full range of steel products to UK industry.

It supplies all steel used in UK sectors, from the Automotive and Domestic Appliance segments to the Construction market and General Industry. Its steel forms the critical foundation of a wide range of products and structures from kitchens to construction.

ARCELORMITTAL DISTRIBUTION SOLUTIONS UK LTD is a part of the ArcelorMittal group, thereby providing its customers with direct access to the best mill lead-times, a guarantee of supply which comes from being the world´s biggest steelmaker and producing the most cutting edge developments in steel.

On March 17, 2014, the Complainant ARCELORMITTAL filed a complaint against the holder of the domain arcelormittaldistributionsolutionsukltd.com.

By various means, the Respondent was notified of the complaint and the commencement of the proceeding for an extrajudicial domain name settlement in the Czech Arbitration Court. The Resopndent was informed that the Complainant had initiated an extra-judicial conflict resolution proceeding in conformity with the Regulation on Dispute Resolution in the area of .com Domain names and the Addition Regulation of the Arbitration Court attached to Economic Chamber of the Czech Republic and Agricultural Chamber of the Czech Republic with which the Complainant seeks principally to transfer to itself the domain name in contention, that is arcelormittaldistributionsolutionsukltd.com.

With the Respondent having been adequately informed of the complaint, the latter has let the established response period expire without having responded nor opposed the complaint.

In short, the Complainant claims that:

The disputed domain name “arcelormittaldistributionsolutionsukltd.com” is confusingly similar to its trademark ARCELORMITTAL, to its domain names, and identical to its company name.

The Complainant confirms that the Respondent has no rights or legitimate interests in respect of the domain name and it is not related in any way with the Complainant`s business. The Respondent does not carry out any activity or business related with the Complainant, is not affiliated with it nor authorized by it in any way, and neither a license nor an authorization has been granted to the Respondent to make any use, or apply for registration of the disputed domain name by the Complainant.

The domain name has been registered and is being used in bad faith. In this sense, the Respondent has registered the domain name with full knowledge of the Complainant´s trademarks and uses it for the purpose of misleading and diverting Internet traffic. Furthermore, the Complainant contends that the Respondent has registered the disputed domain in order to block it from registering it.

The Respondent was notified that an administrative proceeding has commenced against it pursuant to the Uniform Dispute Resolution Policy and Rules.

The proceeding was initiated on March 20, 2014. The deadline for filing a response on the on-line platform expired on April 09, 2014.

The Respondent never accessed the online platform.

Since no reply was filed by the Respondent, the Czech Arbitration Court thereby entered a default decision against it, in accordance with the Rules for Uniform Domain Name Dispute Resolution Policy and the Supplemental Rules of the Czech Arbitration Court and duly informed it of the decision.

PARTIES CONTENTIONS

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

Now, with reference to the grounds of the present resolution, and in agreement with the provisions of the paragraph 4 (a) of the Policy, there are three elements the Complainant must prove in order to have the domain name registered by the Respondent assigned in their favor.

These elements are:

(i) The domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.
(ii) The Respondent has no right or legitimate interests in respect to the domain name, and,
(iii) The domain name has been registered and is being used in bad faith.

Now if we take into account the brief filed by the Complainant as well as the documents attached thereof, it is clear that the disputed domain name “arcelormittaldistributionsolutionsukltd.com” is identical or confusingly similar to the Complainant´s Trade Mark ARCELORMITTAL, on which it holds exclusive rights.

Regarding the need to prove that the disputed domain names are identical or confusingly similar to the registered Trademarks in which the Complainant has rights, the Complainant has proved that they are the owner of the ARCELORMITTAL brand since they have already submitted as evidence the certification of the brand registry of the World Intellectual Property Organization (hereinafter the WIPO) in which they appear as owner thereof since the registration date 03/08/2007 until the expiration date 3/08/2017.

Likewise, they have certified that they are the owner of the domain names “Arcelormittal.BIZ”, “arcelormittal.co.uk”, “arcelormittal.com”, “ARCELORMITTAL.COM”, “ARCELORMITTAL.MOBI”, “arcelormittal.net”, “ARCELORMITTAL.NET”, “ARCELORMITTAL.ORG”, “ARCELOR-MITTAL.BIZ”, “arcelor-mittal.com”, “ARCELOR-MITTAL.COM”, “ARCELOR-MITTAL.INFO”, “arcelor-mittal.net”, “ARCELOR-MITTAL.NET”, “ARCELOR-MITTAL.ORG”, thereby attaching the documentation taken from the page www.Whois-search.com where it is shown that the Complainant appears as owner thereof.

The domain object of this conflict “arcelormittaldistributionsolutionsukltd.com” contains the exact name of the company.

The fact that it combines the exact name of the company with generic words such as “distribution”, “solution”, “uk” or ldt” is not sufficient in order to remedy the fact that name is confusingly similar. Since it can be easily associated with the activity undertaken by the Complainant and with which it is distinguished in the market, this causes evident confusion for the consumer due to the fact that they may understand that it is a derivative brand and that the domain name is deemed property of the Complainant or a web page belonging to a licensee or authorized agent.

In conformity with the need to prove the second requisite related to whether the domain name has been registered by the Respondent who lacks legitimate rights or interests thereof. We highlight that firstly the Complainant affirms that the Respondent does not carry out any activity nor business related thereto and moreover they are not affiliated with the Complainant nor do they possess any license or authorization that guarantees it to make use or request the registry of the domain name in dispute. For which the Respondent cannot use the Complainant’s domain name without damaging rights of the Complainant. In this sense and due to the facts that the Respondent has not responded to this proceeding, there is no evidence of the transfer of use of trademark to the owner of the domain name nor he has demonstrated any right or legitimate interest.

Likewise and in contrast with the Respondent, it must be noted that the Complainant enjoys considerable renown and is fully recognized by the name of ARCELORMITTAL since just as we have set forth in the factual background section of this decision, the company was established in 2006 and since then has developed its business thereby constituting one of the largest steel producing company in the world, a market leader for the use of steel in construction of appliances, automation and packaging with a presence in more than 60 countries. As proof of this a simple Google search yields a never-ending array of results related to the Complainant´s company just as this arbitrator was able to verify, and also as the Complainant has proved by means of a screen that the server yields from a simple Google search introducing the Word “ARCELORMITTAL”. Nevertheless, unlike the aforementioned, there is no evidence that allows us to affirm that the Respondent is recognized by said name.

Furthermore, this Panellist when trying to go to the web page “arcelormittaldistributionsolutionsukltd.com” has not found any associated web page. The Panellist has not found a web page in preparation or one which is aimed at commercial trading, but rather an inactive web page just as the Complainant has proved, thereby submitting as evidence a screen which the server yield upon an attempt to access that page.

Lastly and in relation with the third requisite related to the need for evidence that the registration and the use of the domain has been performed in bad faith. It is not likely that the Respondent did not know the name of the Complainant or their activity since just as we have indicated previously from a simple Google search it is evident that the Complainant´s company is commonly recognized.

This proves that the choice of the domain name by Respondent was not made arbitrarily and that during the registration of the disputed domain name he had in mind the trademark which is the property of the Complainant.

The aforementioned together with the fact that the domain name is not linked to a web page with its own content as well as the passivity on the part of the Respondent in light of the requirement made by this Court for the presentation of the complaint is evidence that said the registration of the domain name was made in bad faith with the intention of disturbing or hindering the mercantile activity of the owner of trademark even though it has not been proven that the Respondent required any amount from the Complainant in order to sell or rent the disputed domain name or that the Respondent offerred to transfer the registration either to the Complainant or to his competitor for obtaining a profit.

Based on the above the Panel states that the Complainant has demonstrated that each and every one of the requirements required for an application of the provisions of Paragraph 4 (a) are met and consequently deems that the Complaint must be admitted and the disputed domain names 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. **ARCELORMITTALDISTRIBUTIONSOLUTIONSUKLTD.COM**: Transferred

PANELLISTS

Name	**Enrique Batalla**

DATE OF PANEL DECISION 2014-04-24

Publish the Decision