Decision for dispute CAC-UDRP-100849

Case number	**CAC-UDRP-100849**
Time of filing	**2014-08-22 11:21:50**
Domain names	**usaarcelormittal.com**

Case administrator

Name	**Lada Válková (Case admin)**

Complainant

Organization	**ArcelorMittal S.A.**

Complainant representative

Organization	**Nameshield (Anne Morin)**

Respondent

Name	**david trapp**

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which relate to the disputed domain name USAARCELORMITTAL.COM (the 'Domain Name').

IDENTIFICATION OF RIGHTS

ARCELORMITTAL S.A. (the 'Complainant') is the owner of numerous registered trade marks for ARCELORMITTAL, including registrations in the United States of America in various classes under numbers 0947686 and 3908649.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Complainant is a company specialised in producing steel across the world, and notably in United States. The Complainant refers to their website at: www.arcelormittal.com.

The Complainant 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 of raw materials and operates extensive distribution networks.

The Complainant owns various trade marks which include the words ARCELORMITTAL. The Complainant is also the owner

of many Internet domain names which include the words ARCELORMITTAL, including ones with the addition of 'usa'.

The disputed Domain Name was registered on 2 June 02 2014.

The Complainant asserts that the Domain Name is confusingly similar to its various trade marks for ARCELORMITTAL.

The Complainant first filed its complaint in relation to the Domain Name with the Czech Arbitration Court on 20 August 2014. The Complainant at that time was directed towards a privacy shield service 'Perfect Privacy, LLC'. However, following a request by the CAC for Registrar Verification, the privacy shield was lifted to reveal the true identity of the registrant of the Domain Name as being a US based individual called "David Trapp". As a result the Complainant filed and amended the complaint so as to be filed against David Trapp.

The CAC formally commenced proceedings on 26 August 2014 and notified the Respondent accordingly.

The Respondent failed to submit a Response within the time frame required in this Complaint, or at all, and a Notification of Respondent’s Default was therefore issued by the Czech Arbitration Court on 16 September 2014.

Having received a Statement of Acceptance and Declaration of Impartiality, the Czech Arbitration Court appointed Steve Palmer, of Palmer Biggs Legal - Solicitors, as the Panel in these UDRP proceedings.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant argues that the Domain Name is confusingly similar to its registered trade marks for ARCELORMITTAL, and points out the Domain Name contains the Complainant's trade mark in its entirety.

The Complainant states the addition of the term "USA" at the beginning of the Domain Name, corresponding to a geographical term, is not sufficient to avoid the finding that the Domain Name is confusingly similar to the ARCELORMITTAL trade mark.

The Complainant points out that ARCELORMITTAL is only known in relation to the Complainant, and that it has no other meaning whatsoever in English or in any other language.

A Google search on the wording ARCELORMITTAL displays various results, all of them being related to the Complainant.

The Complainant argues a Respondent is not commonly known by a domain name where the WHOIS information is not similar to a disputed domain name, and infers this is the case in these proceedings. In any event the Complainant states the Respondent has no rights or legitimate interests to the Domain Name.

The website attached to the Domain Name has a 'parking' page which the Complainant states provides pay per click links benefiting the Respondent. This website links to third party websites which are related to the Complainant's activities, and includes links to competitors of the Complainant.

The Complainant states it is inconceivable that the choice of the Respondent’s Domain Name was made independently of knowledge of the Complainant’s trade marks.

The Respondent is deliberately trading off the goodwill of the Complainant, by attracting internet users and diverting internet

traffic intended for the Complainant to the Respondent’s website for the purpose of monetary gain.

Further, as the Domain Name was registered using a WHOIS privacy service, this is, in itself, evidence of bad faith.

The Complainant concludes the Respondent registered and is using the Domain Name in bad faith.

The Complainant requests the transfer of the Domain Name into its own name.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the Domain Name is confusingly similar to a trade 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

Paragraph 4(a)(i) of the Policy

The Panel finds the Domain Name confusingly similar to the ARCELORMITTAL trade mark in which the Complainant has registered rights.

Paragraphs 4(a)(ii) and 4(a)(iii) of the Policy

The Respondent failed to file an administratively compliant response. In the circumstances the Panel finds from the facts put forward that:

The Respondent has no rights or legitimate interests in respect of the Domain Name. There was nothing put forward in this case file which might suggest otherwise.

The Domain Name has been registered and is being used in bad faith:
- The Panel believes from the facts that the Respondent had the Complainant and its ARCELORMITTAL trade mark in mind when registering the Domain Name.
- The Panel finds that the Domain Name is likely to have been registered intentionally to attempt to attract, for commercial gain, Internet users to the web site hosted at the Domain Name, by creating a likelihood of confusion with the Complainant's trade mark (paragraph 4(b)(iv) of the Policy).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **USAARCELORMITTAL.COM**: Transferred

PANELLISTS

Name	**Steve Palmer**

DATE OF PANEL DECISION 2014-10-03

Publish the Decision