Decision for dispute CAC-UDRP-101154

Case number	CAC-UDRP-101154
Time of filing	2016-01-22 11:33:53
Domain names	arcelormittaluk.com

Case administrator

Name	Lada Válková (Case admin)

Complainant

Organization	ARCELORMITTAL S.A.

Complainant representative

Organization	Nameshield (Anne Morin)

Respondent

Name	Gluyag Paul

OTHER LEGAL PROCEEDINGS

The panel is not aware of any other pending or decided proceedings.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the international registration 947686 ARCELORMITTAL registered on August 3, 2007.

FACTUAL BACKGROUND

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

The Complainant is a multinational steel manufacturing corporation and is the market leader in steel for use in automotive, construction, household appliances and packaging with operations in more than 60 countries.

The disputed domain name <arcelormittaluk.com> was registered on December 24, 2015 with Whois privacy services.

On January 4, 2016, a fraudulent email has been sent from the address trastgeldi@harran.edu.tr to a potential job seeker. The sender pretends to be a Mr Andrew Morris being HR Executive from the company ArcelorMittal Group. In his email, he invited the recipient to send his CV/Resume to the email address: career@arcelormittaluk.com.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant states that the disputed domain name <arcelormittaluk.com> is confusingly similar to its international trademark ARCELORMITTAL. The trademark is incorporated in its entirety in the disputed domain name.

The addition of the geographical generic abbreviation "UK" (for United Kingdom) is not sufficient to escape the finding that the domain name <arcelormittaluk.com> is confusingly similar to the trademark ARCELORMITTAL.

On the contrary, the addition of a geographic term renders the disputed domain name even more confusingly similar to the registered trademark because it causes an immediate association with the sales office of Complainant in the geographic area in question.

Furthermore, the Complainant contends the addition of the gTLD ".COM" does not change the overall impression of the designation as being connected to the international trademark ARCELORMITTAL of the Complainant. It does not prevent the likelihood if confusion between the disputed domain name and the Complainant, its trademark and its domain names associated.

Finally, the wording "ARCELORMITTAL" is only known in relation with the Complainant. It has no meaning whatsoever in English or in any other language.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name <arcelormittaluk.com>. He is not related in any way with the Complainant.

The Complainant does not carry out any activity for, nor has any business with the Respondent. Neither licence nor authorization has been granted to the Respondent to make any use of the trademark ARCELORMITTAL, or apply for registration of the disputed domain name by the Complainant.

The website in relation with the disputed domain name <arcelormittaluk.com> has been inactive since its registration.

However, on January 4, 2016, a fraudulent email was sent from the address trastgeldi@harran.edu.tr to a potential job seeker. The sender pretends to be a Mr Andrew Morris - HR Executive from the company ArcelorMittal Group. Since the sender is obviously not from the ArcelorMittal Group, this constitutes a case of identity theft. The Respondent could not pretend to have any legitimate right on the disputed domain name <arcelormittaluk.com>.

Moreover, in his email, he invited the recipient to send his CV/Resume to the email address: career@arcelormittaluk.com. Thus, the Complainant contends that the disputed domain name <arcelormittaluk.com> has been registered with the sole aim to create the fraudulent email address career@arcelormittaluk.com in order to attract potential job seekers.

The disputed domain name has been registered with Whois privacy services, which is another proof of the lack of legitimate interest of the Respondent.

Given the distinctiveness of the Complainant's trademark and reputation, it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the trademark ARCELORMITTAL.

The fact that the sender of the fraudulent email pretended to be a Mr Andrew Morris - HR Executive from the company ArcelorMittal Group confirms that the sender had knowledge of the Complainant's when he registered the disputed domain name.

Moreover, in his email, he invited the recipient to send his CV/Resume to the email address: career@arcelormittaluk.com.

Thus, the Complainant contends that the disputed domain name <arcelormittaluk.com> has been registered with the sole aim to create the fraudulent email address career@arcelormittaluk.com in order to attract potential job seekers and to impersonate the Complainant.

It is a clear case of scamming. Thereby, the Complainant believes that the use of the domain name <arcelormittaluk.com> for “scamming” activities is another indication of bad faith, since such practice could seriously harm Complainant’s interests.

Finally, the website in relation with the disputed domain name has been inactive since its registration. As prior panels have held, the incorporation of a famous mark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use.

On these grounds, the Complainant concludes that the Respondent has registered and is using the disputed domain name <arcelormittaluk.com> in bad faith.

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

The disputed domain name is almost identical to the trademark ARCELORMITTAL of the Complainant since the further element UK is a geographical indication with no distinctiveness. The Panel therefore considers the disputed domain name to be confusingly similar to the trademarks in which the Complainants have rights in accordance with paragraph 4(a)(i) of the Policy.

The Complainant’s assertions that the Respondent is not commonly known by the disputed domain name and is not affiliated with nor authorised by the Complainant are sufficient to constitute a prima facie showing of absence of rights or legitimate interest in the disputed domain name on the part of the Respondent. The evidentiary burden therefore shifts to the Respondent to show by concrete evidence that it does have rights or legitimate interests in that name. The Respondent has made no attempt to do so. The Panel therefore finds that the Respondent does not have rights or legitimate interests in the Domain Name.

It is the consensus view of Panels (following the decision Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003, <telstra.org>) that the apparent lack of active use of the domain name without any active attempt to sell or to contact the trademark holder (passive holding), does not as such prevent a finding of bad faith. Examples of what may be cumulative circumstances found to be indicative of bad faith include that no response to the complaint has been filed and the registrant's concealment of its identity. Furthermore, the sending of a scam email is a further indication of the bad faith

of the Respondent (see WIPO - D2014-1387 - Tetra Laval Holdings & Finance S.A. v. VistaPrint Technologies Ltd).

Accordingly, 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) by registering a confusingly similar domain name being aware of the trademarks of Complainant.

The Panel therefore considers the Domain Name to has been registered and used in bad faith in accordance with paragraph 4(a)(iii) of the Policy under the present circumstances.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ARCELORMITTALUK.COM**: Transferred

PANELLISTS

Name	**Dietrich Beier**

DATE OF PANEL DECISION 2016-03-02

Publish the Decision