Decision for dispute CAC-UDRP-101560

Case number	CAC-UDRP-101560
Time of filing	2017-06-08 09:30:55
Domain names	arcelormtal.com

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	ARCELORMITTAL SA

Complainant representative

Organization	Nameshield (Maxime Benoist)

Respondent

Name	Kevin Solis

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings that relate to the Disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the registered owner of international word trademark “ArcelorMittal”, reg. no. 947686, filed on 25 May 2007, registered on 3 August 2007, registered for goods and services in classes 6, 7, 9, 12, 19, 21, 39, 40, 41 and 42 (“Complainant’s Trademark”).

The Disputed domain name <arcelormtal.com> was registered on 24 May 2017.

FACTUAL BACKGROUND

As the Respondent did not file any response to the complaint, the Panel took into account the following facts asserted by the Claimant (and supported by the documentary evidence submitted by the Claimant) and unchallenged by the Respondent:

(a) the Complainant is the largest steel and mining 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;

(b) the Complainant is the owner of the Complainant’s Trademark ;

(c) the Complainant owns various domain names including the same distinctive wording ARCELORMITTAL ;

(d) the Disputed domain name was registered on 24 May 2017 ; and

(e) under the Disputed domain name there was a website displaying sponsored links in relation with the Complainant.

The Complainant seeks transfer of the Disputed domain name to the Complainant.

PARTIES CONTENTIONS

THE COMPLAINANT:

In addition to the above factual assertions, the Complainant also contends the following:

(i) Disputed domain name is confusingly similar to the Complainant's Trademark;

(ii) Disputed domain name is also a clear case of "typosquatting", i.e. the Disputed domain name contains an obvious misspelling of the Complainant's Trademark;

(iii) the Respondent is not affiliated with the Complainant nor authorized by it in any way to use Complainant's Trademark. The Complainant does not carry out any activity for, nor has any business with the Respondent;

(iv) the website operated under the Disputed domain name contains parking page displaying pay per click links in relation with the Complainant. The Complainant contends that this is not legitimate non-commercial or fair use of the Disputed domain name;

(v) registering the Disputed domain name with the misspelling of the Complainant's Trademark was intentional attempt to create confusing similarity with the Complainant's trademarks and thus the registration was done in bad faith; and

(vi) the Respondent uses the Disputed domain name in connection with a website which points to a parking webpage displaying sponsored links. The Complainant contends that this use is only made to attract internet traffic for commercial again and thus constitutes bad faith conduct.

THE RESPONDENT:

The Respondent did not provide any response to the complaint.

RIGHTS

The Panel concluded that the Disputed domain name is confusingly similar to the Complainant's Trademark within the meaning of paragraph 4(a)(i) of the Uniform Domain Name Dispute Resolution Policy ("UDRP" or "Policy").

For details, please see "Principal Reasons for the Decision".

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.

For details, please see "Principal Reasons for the Decision".

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.

For details, please see "Principal Reasons for the Decision".

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP Policy 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) of the UDRP Policy requires that the Complainant proves each of the following three elements to obtain an order that the Disputed domain name should be transferred or revoked:

(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 will proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied in this proceeding.

RIGHTS
The Disputed domain name is confusingly similar with the Complainant's Trademark. The Panel concludes with the previous decisions concerning similar cases involving the Complainant that a slight spelling variations of the Disputed domain name (ARCELORMTAL) are not sufficient to avoid confusing similarity to the Complainant's Trademark (ArcelorMittal) (please see, for example, CAC Case no. 101233, ARCELORMITTAL v. Contact Privacy Inc. Customer 124632448 <arcelormilttal.com>, WIPO case no. D2016-1853 - Arcelormittal S.A. v. Cees Willemsen - <arclormittal.com> and <arelormittal.com>, CAC case no.101265 - ARCELORMITTAL v. Fetty wap LLc Inc - <arcelormitals.com> , CAC case no. 101267 - ARCELORMITTAL v. davd anamo - <arcelormiltal.com>)

For sake of completeness, the Panel asserts that the top-level suffix in the domain name (i.e. the ".com") must be disregarded under the identity / confusing similarity test as it is a necessary technical requirement of registration. Therefore, the Panel concludes that the Complainant satisfied the requirement under paragraph 4(a)(i) of the UDRP.

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the UDRP (please see, for example, WIPO case no. D2003-0455, Croatia Airlines d.d. v. Modern Empire Internet Ltd.).

As asserted by the Complainant (and unchallenged by the Respondent), the Respondent is not commonly known by the Disputed domain name. Neither is the Respondent in any way related to the Complainant. The Respondent failed to provide any information and evidence that it has relevant rights or legitimate interests in respect of the Disputed domain name (within the meaning of paragraph 4(a) (ii) of the Policy).

Therefore, the Panel concludes that the Respondent did not establish any right or legitimate interest to the Disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Panel believes that this case is a prima facie example of typosquatting which is one of the model situations of bad faith registration / use of a domain name (paragraph 4(b)(iv) of the Policy). As numerous previous decisions have held, typosquatting as such is evidence of bad faith (please see, for example, WIPO Case No. D2011-1079 bwin.party services (Austria) GmbH v. Interagentur AG; WIPO Case No. D2002-0568, Go Daddy Software, Inc. v. Daniel Hadani; WIPO Case No. D2002-0423 Dell Computer Corporation v. Clinical Evaluations, or WIPO Case No. D2001-0970, Briefing.com Inc v. Cost Net Domain Manager).

Use of the Disputed domain name in bad faith is also evidenced by operation of pay-per-click scheme under the Disputed domain name. The Respondent has exploited the confusing similarity to Complainant's Trademarks to achieve commercial gain, which is clearly a bad faith conduct (please see WIPO Case No. D2015-2305, Calvin Klein Trademark Trust, Calvin Klein, Inc. v. Moniker Privacy Services).

As a result, the Panel found that the Disputed domain name has been registered and used by the Respondent in bad faith (within the meaning of 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. **ARCELORMTAL.COM**: Transferred

PANELLISTS

Name	**Michal Matějka**

DATE OF PANEL DECISION 2017-07-14

Publish the Decision