Decision for dispute CAC-UDRP-101667

Case number	CAC-UDRP-101667
Time of filing	2017-09-06 10:29:09
Domain names	arcelormittai.com

Case administrator

Name	Aneta Jelenová (Case admin)

Complainant

Organization	ArcelorMittal (Société Anonyme)

Complainant representative

Organization	Nameshield (Anne Morin)

Respondent

Name	Robert Rudd

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of trademark registrations across various jurisdictions, including the United States, where the Respondent is located, inter alia International registration no. 947686 ArcelorMittal, registered on August 3, 2007 for various goods and services in classes 06, 07, 09, 12, 19, 21, 39, 40, 41, and 42 (hereinafter referred to as the "Trademark").

FACTUAL BACKGROUND

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 provides information on its goods and services online at <arcelormittal.com>.

The disputed domain name was registered on August 22, 2017 and is not used in connection with an active website since its registration.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant contends that the disputed domain name is confusingly similar to the Trademark and that the present case is a clear case of typo squatting.

Furthermore, the Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. In this regard, the Complainant states that the Respondent has no relationship with the Complainant's business and is not authorized or licensed to use the Trademark, that the Respondent has not used the disputed domain name actively and therefore can not rely on a bona fide offering under paragraph 4(c)(i) of the Policy, and that the Respondent has registered the disputed domain name with the sole aim to prevent the Complainant to register it.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. In this regard, the Complainant contends that the present case is a clear case of typosquatting and that the use of misspellings in domain names indicates bad faith registration. With regard to bad faith use, the Complainant argues that it is well established that passive holding, i.e. the incorporation of a famous trademark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use. The Complainant also states that the Respondent has provided no evidence of any actual or contemplated good faith use by it of the disputed domain name.

RESPONDENT:

No administratively compliant Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed 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 disputed 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 disputed 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

Under paragraph 4(a) of the Policy, the Complainant must prove that each of the following three elements is present:

(i) the disputed domain name is identical or confusingly similar to the Complainant's trademark; 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.

1. The Panel accepts that the disputed domain name is confusingly similar to the Trademark as it fully incorporates the well-established Trademark by only changing the last letter "L" to "I". This is a clear case of typo squatting and the disputed

domain name is nearly identical and confusingly similar to the Trademark.

2. The Complainant has substantiated that the Respondent has no rights or legitimate interests in the disputed domain name. The Panel finds that the Complainant has fulfilled its obligations under paragraph 4(a)(ii) of the Policy. The Respondent did not deny these assertions in any way and therefore failed to prove any rights or legitimate interests in the disputed domain name.

3.1 The Panel is also satisfied that the Respondent registered the disputed domain name with full knowledge of the Complainant and its rights in the Trademark as the Trademark is highly distinctive and the disputed domain name obviously reflects a typo of the Trademark, which indicates that the disputed domain name was registered having the Complainant and the Trademark in mind.

3.2 Finally, the Panel accepts the Complainant's contentions that the disputed domain name has been used in bad faith under the principles of passive holding. It is consensus view that the lack of an active use of a domain name does not as such prevent a finding of bad faith under the Policy. In such cases the panel must examine all the circumstances of the case to determine whether a respondent is acting in bad faith. Examples of circumstances that can indicate bad faith include a complainant having a well-known trademark, no response to the complaint, respondent's concealment of identity and the impossibility of conceiving a good faith use of the domain name (cf Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003; Jupiters Limited v. Aaron Hall, WIPO Case No. D2000-0574; Ladbroke Group Plc v. Sonoma International LDC, WIPO Case No. D2002-0131).

The Panel is convinced that the Trademark is highly distinctive and well-established. Furthermore, the Respondent failed to file a Response and therefore did not provide evidence of any actual or contemplated good faith use of the disputed domain name. In the view of the Panel, the facts of this case do not allow for any plausible actual or contemplated active use of the disputed domain name by the Respondent in good faith. The Panel is therefore convinced that, even though the disputed domain name has not yet been actively used, the Respondent's non-use of the disputed domain name equals to use in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ARCELORMITTAI.COM**: Transferred

PANELLISTS

Name	**Peter Müller**

DATE OF PANEL DECISION 2017-10-12

Publish the Decision