Decision for dispute CAC-UDRP-101717

Case number	CAC-UDRP-101717
Time of filing	2017-10-06 13:36:26
Domain names	arcelromittal.com

Case administrator

Name	Aneta Jelenová (Case admin)

Complainant

Organization	ArcelorMittal

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Organization	Ziko Invest

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the international trademark registration no. 947686 "ARCELORMITTAL", granted on August 3, 2007.

Likewise, the Complainant also owns the domain name <arcelormittal.com>, registered on January 27, 2006.

FACTUAL BACKGROUND

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

- The Complainant – a company specialized in the production and commercialization of steel all around the world – owns a portfolio of brands including the international trademark registration no. 947686 "ARCELORMITTAL", granted on August 3, 2007 and duly renewed, in classes 6, 7, 9, 12, 19, 21, 39, 40, 41 and 42.

- The Complainant also owns the domain name <arcelormittal.com> since 2006.

- The Respondent has registered the disputed domain name <ARCELROMITTAL.COM> on September 12, 2017, which, as of

this day, has never been used in connection with an active website/webpage.

PARTIES CONTENTIONS

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

THE DISPUTED DOMAIN NAME IS IDENTICAL OR CONFUSINGLY SIMILAR TO THE COMPLAINANT`S TRADEMARK

The Panel finds that the disputed domain name is confusingly similar to the trademark “ARCELORMITTAL” and to the relative domain name <arcelormittal.com> registered by the Complainant, which has proven to have prior rights since 2006-2007.

In particular, the Panel agrees that the mere inversion of letters “O” and “R” in the verbal portion ARCELOR is not sufficient to avoid the confusingly similarity of the disputed domain with the trademark ARCELORMITTAL and the domain name <arcelormittal.com>.

In this regard, it shall be underlined that many WIPO and CAC decisions – even involving the present Complainant, such as the ones mentioned in the Complaint – stated how the typosquatting practice (the slight spelling variation of a trademark) does not prevent a disputed domain name from being confusing similar to the Complainant’s trademark (WIPO - D2016-1853 - Arcelormittal S.A. v. Cees Willemsen - <arclormittal.com> and <arelormittal.com>; CAC - 101265 - Arcelormittal v. Fetty wap LLc Inc - <arcelormitals.com>; CAC - 101267 - Arcelormittal v. davd anamo - <arcelormiltal.com>).
The same case lies before us in this matter.

THE RESPONDENT HAS NO RIGHTS OR LEGITIMATE INTERESTS IN RESPECT OF THE DISPUTED DOMAIN NAME

According to the information provided by the Complainant, the Respondent is not affiliated nor authorized by the Complainant in any way. Likewise, the Complainant neither licensed nor authorized the Respondent to make any use of its trademark “ARCELORMITTAL”, or to apply for registration of the disputed domain name on behalf of the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent.

It is undeniable that Complainant is only required to make out a prima facie case that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. Once such prima facie case is made, 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.

Given all the above and taken into account the fact that the Respondent did not provide any response within the present proceeding, the Panel accepts the contentions of the Complainant that the Respondent has no such rights or legitimate interests in <arcelromittal.com>.

THE DISPUTED DOMAIN NAME HAS BEEN REGISTERED AND IS BEING USED IN BAD FAITH

The Panel finds that the Complainant successfully submitted prima facie evidence that the Respondent has made no use of, or demonstrable preparations to use, neither of the disputed domain name in connection with a bona fide offering of goods or services, nor is making a legitimate non-commercial or fair use of the disputed domain name.

The disputed domain name represents a clear example of typosquatting, an activity which is considered evidence of bad faith by the consistent case law in domain name disputes (see, among others, NAF case no. FA 157321 Computerized Sec. Sys., Inc. v. Hu).

In the absence of a response from Ziko Invest and given the reputation of the Complainant and its trademark, the Panel infers that the Respondent had the Complainant's trademarks "ARCELORMITTAL" in mind when registering the disputed domain name. Consequently, the Panel believes that the same was registered and is being (passively) used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ARCELROMITTAL.COM**: Transferred

PANELLISTS

Name	**Tommaso La Scala**

DATE OF PANEL DECISION 2017-11-08

Publish the Decision