Decision for dispute CAC-UDRP-101724

Case number	CAC-UDRP-101724
Time of filing	2017-10-13 09:56:42
Domain names	arcelormediterranee.com

Case administrator

Name	Aneta Jelenová (Case admin)

Complainant

Organization	ArcelorMittal

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Name	Erik Fellman

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceeding in relation to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the holder of international trademark no. 947686 for "ARCELORMITTAL", in classes 6, 7, 9, 12, 19, 21, 39, 40, 41 and 42, priority 3 August 2007, and international trademark no. 778212 for "ARCELOR", in classes 6, 7, 9, 12, 37, 40 and 42, priority from 25 February 2002. The Complainant is also the holder of the domain <ARCELORMITTAL.COM> registered on 27 January 2006.

The Respondent registered the disputed domain name <ARCELORMEDITERRANEE.COM> on 17 September 2017.

FACTUAL BACKGROUND

The Complainant is a company with its legal seat in Luxembourg. The Complainant is the largest steel manufacturer in the world and a market leader for use of steel in automotive, construction, household appliances and packaging with operations in more than 60 countries. The Complainant filed the complaint on 13 October 2017.

The Respondent registered the disputed domain name <ARCELORMEDITERRANEE.COM> on 17 September 2017. The Respondent has used the disputed domain name to advertise services of other companies.

PARTIES CONTENTIONS

No administratively complaint response has been filed.

RIGHTS

The Complainant has to the satisfaction of the Panel shown that 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 that the Respondent does not have any 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 that 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

IDENTICAL OR CONFUSINGLY SIMILARITY

The Panel finds that the disputed domain name <ARCELORMEDITERRANEE.COM> is confusingly similar to the Complainant’s trademark "ARCELOR" and "ARCELORMITTAL".

It is common practice of the Panels that the top-level domain ".COM" is disregarded when comparing the disputed domain name to the trademark rights of the Complainant. When disregarding the top-level domain, the assessment of confusing similarity must be based on a comparison between "ARCELORMEDITTERANEE" and "ARCELOR" and/or "ARCELORMITTAL".

The first part of the disputed domain name is "ARCELOR", which is identical to the trademark rights of the Complainant. "ARCELOR" is a distinctive trademark which in the opinion of the Panel has no dictionary meaning.

The Respondent has added the geographical term "MEDITTERANEE" which refers to the Mediterranean Sea to the registered trademark of the Complainant. The addition of the geographical term does not add any distinctiveness to the disputed domain.

Considering the above the Panel decides that the disputed domain name is confusingly similar to the Complainant's trademark rights according to the article 4(a)(i) of the Policy.

RIGTHS OR LEGITIMATE INTERESTS AND BAD FAITH

The Complainant contends that the Respondent has made no use of, or demonstrable preparations to use, neither of the domain names in connection with a bona fide offering of goods or services, is not making a legitimate non-commercial or fair use of the disputed domain name, and is not commonly known under the disputed domain name.

The Panel notes that the disputed domain name holder’s name or contact details contain no reference to "ARCELOR" or "ARCELORMEDITERRANEE" or any similar words or names

The Panel notes that the disputed domain name was registered on 17 September 2017 and that the complaint was filed on the 13 October 2017. Since the Respondet has been using the domain name for advertising business since the registration

date, the Panel does not consider that the fact that the Respondent had only been the proprietor of the disputed domain for less than four weeks, before the complaint was filed, to be relevant for this decision.

The domain name is used for advertising for services that are in direct competition with the goods and services offered by the Complainant under its ARCELOR and ARCELORMITTAL trademark. The Respondents use of the disputed domain does not constitute a bona fide offering of goods and services under paragraph 4(c)(iii) of the Policy.

The Respondent is using the distinctive trademark of the Complainant as part of the disputed domain name, and advertises for services that are competing with goods and services offered by the Complainant. The Panel therefore finds that the Complainant has shown to the satisfaction of the Panel, that the Respondent must have been aware of the trademark belonging to the Respondent when registering the disputed domain name. The Respondent has therefore registered the disputed domain name in bad faith.

The Respondent is also using the disputed domain name in bad faith pursuant to paragraph 4(b)(iv) of the Policy because the Respondent is commercially gaining from the likelihood of confusion between the Complainant's mark and the products and services advertised on the disputed domain name.

In lack of any Response from the Respondent, or any other information indicating the contrary, the Panel concludes that the Respondent has no rights or legitimate interests in respect of "ARCELOR" or "ARCELORMEDITTERANEE" and that the Respondent has registered and is currently using the disputed domain name in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ARCELORMEDITERRANEE.COM**: Transferred

PANELLISTS

Name	**Lars Karnoe**

DATE OF PANEL DECISION 2017-11-27

Publish the Decision