Decision for dispute CAC-UDRP-101908

Case number	CAC-UDRP-101908
Time of filing	2018-03-02 09:26:40
Domain names	workforcearcelormittal.com

Case administrator

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

Complainant

Organization	ArcelorMittal

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Organization	China Capital

OTHER LEGAL PROCEEDINGS

There are no other legal proceedings of which the panel is aware that are pending or decided and that are related to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the international trademark n°947686 "ArcelorMittal", registered on August 3, 2007, for goods in classes 06, 07, 09, 12, 19, 21, 39, 40, 41, 42.

FACTUAL BACKGROUND

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

The Complainant contends to be the world's largest steel producer and market leader in steel for use in the fields of automotive, construction, household appliance and packaging industries with branches in more than 60 countries.

The Complainant also claims to own an important domain name portfolio, including the domain name <arcelormittal.com> registered and used since 27 January 2006.

The Complainant further asserts that:

- the Respondent is not commonly known by the domain name;
- the respondent was not authorized by the Complainant to register the domain name featuring the complainant’s mark;
- the Respondent never applied for a license or permission from the Complainant to use the trademarked name;
- the disputed domain name <workforcearcelormittal.com> points to sponsored pay-per-clicks links in relation to Complainant;
- the Respondent was aware of the Complainant when registering and subsequently using the disputed domain name;
- the Respondent has intentionally attempted to attract, for commercial gain (click through income or otherwise), Internet users to its website or other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product or service on its website or location.

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

According to paragraph 4(a) of the UDRP Policy the Complainant must prove for the requested transfer of the disputed domain name <ppleinoutlet.com> that:

(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 to the disputed domain name; and
(iii) the disputed domain name has been registered and is being used in bad faith.

There is no reasonable doubt that the Complaint complies with all these requirements:

(i)

The Complainant has established that it has rights in the trademark "ArcelorMittal", at least since 2007. The Complainant's trademark was registered prior to the registration of the disputed domain name (February 7, 2018) and is widely well-known.

The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark "ArcelorMittal", as it includes the trademark with the mere addition of the generic term "workforce" and the Top-Level domain ".com", which is not sufficient to exclude the likelihood of confusion.

(ii)

Furthermore the Complainant provided prima facie evidence that the Respondent has no rights or legitimate interests in the disputed domain name . 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).

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 the disputed domain name.

(iii)

For a Complaint to succeed, a panel must be satisfied that a domain name has been registered and is being used in bad faith ([Policy, paragraph 4(a)(iii))].

The Complainant's trademark is well-known. The Panel finds it hard to believe that the Respondent would have chosen and registered the disputed domain name in good faith, without having been aware of the Complainant.

As it ensues from the evidence provided by the Complainant, the website operated under the disputed domain name pointed to sponsored pay-per-clicks links (“Pay per Clicks”) in relation to Complainant. These circumstances shows that the Respondent is acting in bad faith. The Complainant points out the following circumstances as material to determine the Respondent’s bad faith in the use of the disputed domain name:

- the Complainant never authorised the Respondent to reproduce its trademark in the disputed domain name and the available evidence does not show whatsoever actual or contemplated good faith use of the disputed domain name;

- taking into account the nature of the disputed domain name, namely the combination of the Complainant's trademark with the mere addition of "workforce" excludes any plausible actual or contemplated active use of the disputed domain name by the Respondent that would not be in bad faith.

For the reasons mentioned above the Panel finds, that the disputed domain name has been registered and is being used in bad faith under 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. **WORKFORCEARCELORMITTAL.COM**: Transferred

PANELLISTS

Name	**Prof. Dr. Lambert Grosskopf, LL.M.Eur.**

DATE OF PANEL DECISION 2018-04-15

Publish the Decision