Decision for dispute CAC-UDRP-101983

Case number	CAC-UDRP-101983
Time of filing	2018-05-04 11:05:16
Domain names	arcelomital.com

Case administrator

Name	Sandra Lanczová (Case admin)

Complainant

Organization	ArcelorMittal S.A.

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Name	Elna A Marin

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings pending or decidedand relating to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the registered owner of the international trademark no. 947686 ARCELORMITTAL registered on August 3, 2007 for goods and services in classes 6, 7, 9, 12, 19, 21, 39, 40, 41 and 42.

FACTUAL BACKGROUND

1. The Complainant is the largest steel producing company in the world and 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.

2. It results from the registrar verification that the date of registration of the disputed domain name by the current registrant.was May 28, 2017 and points to an inactive 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 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).

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

1.
The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark. Many Panels have found that a disputed domain name is confusingly similar to a complainant's trademark where it incorporates the complainant's trademark in its entirety. In the case at hand, the Complainant's registered trademark "ARCELORMITTAL" is not fully included in the disputed domain name. However, the mere cancellation of two letters, i.e. the second "R" and the second "T", results to be an irrelevant minor variation and an obvious misspelling of the trademark and is at least phonetically not enough to exclude confusing similarity. In fact, a domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element (see point 1.9 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition - "WIPO Jurisprudential Overview 3.0".

2.
In the absence of any Response, or any other information from the Respondent indicating the contrary, the Panel further holds that the Complainant successfully presented its prima facie case and that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

In particular, the Respondent is not affiliated with nor authorized by the Complainant in any way, and it is not related in any way to the Complainant's business. In addition, the Respondent is not commonly known by the disputed domain name.

Finally, no content is displayed on the website to which the disputed domain name resolves. Such use can neither be considered a bona fide offering of goods or services nor a legitimate non-commercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

3.
Finally, the Panel finds that the disputed domain name has been registered and is being used in bad faith.
It is the view of this Panel that the Respondent has intentionally registered the Disputed domain name, which almost identically reproduces the Complainant's trademark. By the time the disputed domain name was registered, it is unlikely that the Respondent did not have knowledge of the Complainant's rights on its trademark.

In addition, the Panel considers that the fact that the disputed domain name resolves to an inactive webpage does not prevent a finding of bad faith, taking into consideration not only the distinctiveness of the Complainant's trademark, but also the Respondent's failure to submit a Response or to provide any evidence of any actual or contemplated good faith use of the disputed domain name, Respondent's use of false contact details (in fact the written notice of the Complaint returned

back to the Czech Arbitration Court as undelivered).

On this regard, this Panel shares the view expressed in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Jurisprudential Overview 3.0"), at point 3.3. "From the inception of the UDRP, panellists have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. While panellists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put".

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ARCELOMITAL.COM**: Transferred

PANELLISTS

Name	**Dr. Tobias Malte Müller**

DATE OF PANEL DECISION 2018-06-12

Publish the Decision