Decision for dispute CAC-UDRP-102083

Case number	CAC-UDRP-102083
Time of filing	2018-07-10 09:47:21
Domain names	arcealormittal.com

Case administrator

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

Complainant

Organization	ArcelorMittal S.A.

Complainant representative

Organization	Nameshield (Daria Baskova)

Respondent

Organization	Leonard

OTHER LEGAL PROCEEDINGS

There are no other legal proceedings related to the disputed domain name.

IDENTIFICATION OF RIGHTS

Complainant is the owner of the international trademark n°947686 ArcelorMittal® registered on August 3, 2007.

FACTUAL BACKGROUND

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

ARCELORMITTAL S.A. (the Complainant) is a company specialized in steel producing in the world (please see their website at: www.arcelormittal.com).

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. Complainant also owns an important domain names portfolio, including the same distinctive wording ArcelorMittal®, such as the domain name <arcelormittal.com> registered since January 27, 2006. The disputed domain name was registered on June 21, 2018.

The disputed domain name is inactive.

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).

The addition of the letter “A” in the mark is not sufficient to avoid the likelihood of confusion with the Complainant’s trademark. This is a clear case of typosquatting, the disputed domain name contains an obvious misspelling of the Complainant’s trademark. - NAF Case No. 1787968, Capital One Financial Corp. v. Mason Monroe / Litts Construction (“Respondent’s <capitaloone.online> Domain Name is confusingly similar to Complainant’s CAPITAL ONE mark in that it fully incorporates the mark, albeit with an intentional misspelling (adding a superfluous “o”), and adds the “.online” gTLD. The misspelling of a complainant’s mark and the inclusion of a gTLD in the domain name are insufficient to distinguish it from a complainant’s mark for the purposes of Policy 4(a)(i).”).

Moreover, previous panels have confirmed that the slight spelling variations of the trademark ArcelorMittal® do not prevent a disputed domain name from being confusing similar to the Complainant’s trademark. - CAC Case No. 102008, ArcelorMittal S.A. v. lee wang, (“Here only one character of the disputed domain name is different from the Complainant's well-known registered mark – the N… This is a case of blatant and overt typosquatting.”);- WIPO Case No. D2016-1853, Arcelormittal S.A. v. Cees Willemsen (“The disputed domain names incorporate the Complainant’s well-established ARCELORMITTAL Mark by only changing the element “Arcelor” to “Arclor” and “Arelor”, respectively. This is a clear case of typosquatting and the disputed domain names are nearly identical and are confusingly similar to the ARCELORMITTAL Mark.”);- CAC Case No. 101265, Arcelormittal v. Fetty wap LLc Inc (“The panel does not regard the omission of the letter T and the addition of the letter S to sufficiently alter the nature of the Domain Name such that it might avoid a finding of the Domain Name being confusingly similar to the Complainant's ARCELORMITTAL trade mark.”).

Furthermore, the addition of the gTLD “.COM” does not change the overall impression of the designation as being connected to the international trademark ArcelorMittal® of the Complainant. It does not prevent the likelihood if confusion between the disputed domain name and the Complainant, its trademark and its domain names associated.

NO RIGHTS OR LEGITIMATE INTERESTS

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).

According to the WIPO case D2003-0455 Croatia Airlines d .d. v. Modern Empire Internet Ltd., the Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made, the 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 Policy.

The Respondent is not known as the disputed domain name, but as “Leonard”. Indeed, the past panels have held that a Respondent was not commonly known by a disputed domain name if the WHOIS information was not similar to the disputed domain name.

NAF Case No. FA 96356, Broadcom Corp. v. Intellifone Corp.: Panel stated that the Respondent has “no rights or legitimate interests because the respondent is not commonly known by the disputed domain name or using the domain name in connection with a legitimate or fair use”.

The Respondent have no rights or legitimate interests in respect of the disputed domain name and it is not related in any way with the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent.

Neither licence nor authorization has been granted to the Respondents to make any use of the Complainant's trademark ArcelorMittal®, or apply for registration of the disputed domain name by the Complainant.

Moreover, the disputed domain name is a typosquatted version of the ArcelorMittal®. Typosquatting is the practice of registering a domain name in an attempt to take advantage of Internet users' typographical errors and can be the evidence that the Respondent lacks rights and legitimate interests in the disputed domain name. Please see:

- NAF Case No. 1765498, Spotify AB v. The LINE The Line / The Line ("Complainant contends the <spotfy.com> domain name differs from the SPOTIFY mark only by the omission of the letter "i" in the mark, and is thus a classic case of typosquatting. […] The Panel finds that Respondent's registration of the domain name is typosquatting and indicates it lacks rights and legitimate interests in the domain name per Policy 4(a)(ii).").

- NAF Case No. 1597465, The Hackett Group, Inc. v. Brian Herns / The Hackett Group ("The Panel agrees that typosquatting is occurring, and finds this is additional evidence that Respondent has no rights or legitimate interests under Policy 4(a)(ii).").

Based on the above mentioned arguments, Respondent has no rights or legitimate interests in the disputed domain name. It has no relationship with Complainant's business and is not authorized or licensed to use the trademark ArcelorMittal®.

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).

The Complainant's trademark ArcelorMittal® is widely known. Past panels have confirmed the notoriety of the trademarks ArcelorMittal® in the following cases:

- CAC Case No. 101908, ARCELORMITTAL v. China Capital ("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.");

- CAC Case No. 101667, ARCELORMITTAL v. Robert Rudd ("The Panel is convinced that the Trademark is highly distinctive and well-established.").

Given the distinctiveness of the Complainant's trademarks and its reputation, it is reasonable to infer that the Respondent has registered and used the disputed domain name with full knowledge of the Complainant's trademark.

Please see for instance WIPO - D2004-0673 - Ferrari S.p.A v. American Entertainment Group Inc.

Moreover, the disputed domain name resolves to the inactive website. As prior panels have held, the incorporation of a famous mark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use. - WIPO Case No. D2000-0003, Telstra Corporation Limited v. Nuclear Marshmallows; WIPO Case No. D2000-0400, CBS Broadcasting, Inc. v. Dennis Toeppen.

Furthermore, the disputed domain name is a typosquatted version of the ArcelorMittal® trademark and indicates bad faith.

- NAF Case No. 477183, Nextel Communications Inc. v. Jason Geer ("Panel agrees with Complainant that Respondent registered and used the disputed domain name in bad faith. First, Respondent's <nextell.com> domain name epitomizes "typosquatting" in its purest form, because Respondent misspelled Complainant's well known mark by merely adding the letter "l," causing Internet users seeking Complainant's NEXTEL mark to become confused.");

- CAC Case No. 102029, ArcelorMittal S.A. v. james frank ("It is quite evident that the typodomain name was registered only to disrupt the Complainat's activities Typosquatting in itself can be bad faith.").

Thus, Respondent has registered the disputed domain name and is using it in bad faith.

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

Neither licence nor authorization has been granted to the Respondents to make any use of the Complainant’s trademark or apply for registration of the disputed domain name by the Complainant. The disputed domain name is a typosquatted version of the trademark and indicates bad faith. Given the distinctiveness of the Complainant's trademarks and its reputation, it is reasonable to infer that the Respondent has registered and used the disputed domain name with full knowledge of the Complainant's trademark.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ARCEALORMITTAL.COM**: Transferred

PANELLISTS

Name	**Thomas Hoeren**

DATE OF PANEL DECISION 2018-08-03

Publish the Decision