Decision for dispute CAC-UDRP-102079

Case number	CAC-UDRP-102079
Time of filing	2018-07-10 09:49:18
Domain names	arcelormetals.com

Case administrator

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

Complainant

Organization	ArcelorMittal S.A.

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Organization	FutureGreen, LLC

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the international trademark n°778212 ARCELOR registered on February 25, 2002.

The Complainant also owns an important domain names portfolio, including the same distinctive wording ARCELOR, such as <arcelor.com> registered and used since August 29, 2001 and <arcelormetal.com> registered since March 17, 2015.

FACTUAL BACKGROUND

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

The Complainant, ARCELORMITTAL S.A., 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.

The disputed domain name was registered on June 13, 2018.

The website in relation with the disputed domain name is on registrar parking page.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant contends that :

1. The disputed domain name is confusingly similar to the Complainant's trademark.

The Complainant states that the disputed domain name is confusingly similar to its trademark ARCELOR and its domain names.

In support of this claim, the Complainant refers to prior UDRP cases and affirms that it is a well-established principle that when a domain name wholly incorporates the Complainant's registered mark, the first requirementunder the UDRP shall be considered accomplished.

Further, the Complainant asserts that the addition of the term "METALS" is not sufficient to escape the finding that the domain name is confusingly similar to the Complainant's trademark. In fact, the addition of the English word “METALS” increases the likelihood of confusion with the Complainant’s trademark and activity, because “METALS” refers to the Complainant’s activity.

2. The Respondent does not have any rights or legitimate interest in the disputed domain name.

The Complainant contends that the Respondent is not affiliated with nor authorized by ARCELORMITTAL S.A. in any way. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. 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 Respondent to make any use of the Complainant’s trademark ARCELOR, or apply for registration of the disputed domain name by the Complainant.

3. The disputed domain name has been registered and is being used in bad faith.

The Complainant contends that it is inconceivable that the Respondent could have registered the disputed domain name without actual knowledge of Complainant's rights in the trademark ARCELOR.

The Complainant asserts that the Respondent fails to make an active use at the disputed domain name, and that failure to make an active use of the disputed domain name is evidence of bad faith.

The Complainant further states that, by choosing to associate the term “ARCELOR” with the term “METALS”, which immediately refers to the Complainant activity, the Respondent was intentionally choosing a domain name that is

confusingly similar to the Complainant’s trademark.

RESPONDENT:

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

A) Confusing similarity

The disputed domain name contains the Complainant’s registered international trademark ARCELOR in its entirety with the addition of the generic term "METALS".

This Panel agrees with the Complainant's and previous Panels' view, that the addition of a generic term associated to a trademark does not create a new or different right to the mark or diminish confusing similarity; and that the addition of certain words, as here the term "METALS", can increase the confusing similarity between the Complainant’s trademark and the disputed domain name and increase the risk of confusion between the disputed domain name and the trademark.

B) Lack of legitimate rights or interests

The disputed domain name is a distinctive, non-descriptive name. It is unlikely that the Respondent registered the disputed domain name without having the Complainant firmly in mind. The Complainant’s assertions that the Respondent is not commonly known by the disputed domain name and is not affiliated with nor authorized by the Complainant are sufficient to constitute a prima facie demonstration of the absence of rights or legitimate interests in the disputed domain name on the part of the Respondent. The burden of evidence therefore shifts to the Respondent to show, using tangible evidence, that it does have rights or legitimate interests in the disputed domain name. The Respondent has made no attempt to do so.
Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

C) Registered or Used in Bad Faith

The Complainant gives sound bases for its contention that the disputed domain name was registered and has been used in bad faith.
Firstly, owing to the distinctiveness of the Complainant's trademark and reputation, it is reasonable to infer that the

Respondent registered the disputed domain name with full knowledge of the Complainant's trademark, and so the Panel finds on the balance of probabilities that the Respondent was aware of the Complainant's trademark when registering the disputed domain name.
Secondly, the Panel accepts the Complainant's unchallenged assertion that the Respondent registered the disputed domain name with the aim of creating a likelihood of confusion with the Complainant's trademark.
Thirdly, it appears that the Respondent is passively holding the disputed domain name.
Fourthly, the Respondent has not responded to nor denied any of the assertions made by the Complainant in this proceeding.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ARCELORMETALS.COM**: Transferred

PANELLISTS

Name	**Dr. Fabrizio Bedarida**

DATE OF PANEL DECISION 2018-08-09

Publish the Decision