Decision for dispute CAC-UDRP-102080

Case number	CAC-UDRP-102080
Time of filing	2018-07-10 09:48:17
Domain names	lakshmimittal.ooo

Case administrator

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

Complainant

Organization	ArcelorMittal S.A.

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Organization	Ratnam Smart Business LLP

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°1198046 MITTAL registered on December 5, 2013.

The Complainant also owns a domain name portfolio including the word MITTAL such as the domain name <arcelormittal.com> registered since January 27, 2006, and the domain names incorporating the full name of Mr Lakshmi Mittal and the trademark MITTAL: <lakshmi-mittal.com>, registered since January 31, 2006, and <lakshmimittal.com>, registered since July 12, 2007.

FACTUAL BACKGROUND

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

The 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.

ARCELORMITTAL is the successor of Mittal Steel, a business originally set up in 1976 by Mr Lakshmi N Mittal, chief executive officer and chairman of the board of directors. ARCELORMITTAL was created through the merger of ARCELOR and MITTAL STEEL in 2006.

The Disputed domain name was registered on June 14, 2018.

The Disputed domain name redirects to a parking page with commercial links related to the Complainant.

The Complainant contends that the Disputed domain name is confusingly similar to its trademark MITTAL and its domain name associated. The Disputed domain name includes the trademark MITTAL in its entirety.

In the view of Complainant the addition of the generic term “LAKSHMI” is not sufficient to avoid the likelihood of confusion with the Complainant’s trademark.

Furthermore, the term "LAKSHMI" corresponds to the first name of the chairman and chief executive officer of the Complainant. Therefore, as prior panels have held, the Complainant contends that the addition of this word worsen the confusing similarity between a trademark and a domain name.

Moreover, the Complainant contends the addition of the new gTLD ".OOO" does not change the overall impression of the designation as being connected to the international trademark MITTAL of the Complainant. It does not prevent the likelihood of confusion between the Disputed domain name and the Complainant, its trademarks and its domain name associated.

On those facts, the Complainant contends that the Disputed domain name is confusingly similar to its trademark MITTAL.

The Complainant further states, that the Respondent does not have any rights or legitimate interest in the Disputed domain name, because of domain parking and because Respondent is not commonly known by "lakshmimittal".

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the Disputed domain name and he 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 license nor authorization has been granted to the Respondent to make any use of the Complainant’s trademark MITTAL, or apply for registration of the Disputed domain name by the Complainant.

Furthermore, the Disputed domain name points to a parking page with commercial links (“PPC”) related to the Complainant.

Complainant contends therefore that Respondent has no right or legitimate interest in respect of the Disputed domain name.

The Disputed domain name has in the view of Complainant also been registered and is being used in bad faith, because Respondent has registered a well-known/famous trade mark and tries to attract internet users for commercial gain by creating a likelihood of confusion with the Complainant.

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

Moreover, the Complainant also claims that the Respondent knew of Complainant's rights in the MITTAL trade mark prior to registration of the Disputed domain name since he chose to register a domain name which contains the first name of the chairman and chief executive officer of the Complainant.

Furthermore, the website in connexion with the Disputed domain name is displaying a parking page with commercial links ("PPC") related to the Complainant. The Complainant contends the Respondent has attempt to attract Internet users for commercial gain to his own website thanks to the Complainant’s trademarks, which is an evidence of bad faith.

Thus, Complainant contends that Respondent has registered the Disputed domain name and is using it in bad faith.

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

A. Confusingly Simular

The Complainant has rights in the mark by virtue of its registered trademark Mittal.

The Disputed domain name incorporates the whole of the Complainant’s Mittal trademark, and adds the word "Lakshmi" at the beginning of the Disputed domain name and the gTLD suffix ".ooo".

The term “LAKSHMI” corresponds to the first name of the chairman and chief executive officer of the Complainant. Therefore, as prior Panels have held, the addition of this word worsen the confusing similarity between a trademark and a Disputed domain name, because it is connected and associated with the Complainant.

The addition of the term “LAKSHMI” therefore is not sufficient to avoid the likelihood of confusion with the Complainant’s trademark.

The Panel agrees with the Complainant that the addition of the new gTLD ".OOO" does not change the overall impression of the designation as being connected to the trademark MITTAL of the Complainant. It does not prevent the likelihood of confusion between the Disputed domain name and the Complainant´s trademark. It is the consensus practice of past UDRP panels that TLDs, in this case ".ooo", should be disregarded when comparing domain names with trademarks.

Therefore the Panel finds, that the Disputed domain name is confusingly similar to the Complainant’s trademark Mittal.

B. Rights or Legitimate Interests

When a respondent remains completely silent in the face of a prima facie case that it lacks any rights or legitimate interests in respect of a domain name, a complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the Policy. Here the Complainant has presented an abundance of evidence to show that the Respondent has no plausible right or legitimate

interest in respect of the Disputed domain name and the Panel so finds.

C. Bad Faith

The Panel believes that Respondent registered the Disputed domain name with knowledge of Complainant's rights. The Disputed domain name was registered more than a decade after the registration of the trademarks and the domain names of the Complainant and Complainant used it widely since then.

Moreover, the Complainant also claims that the Respondent knew of Complainant's rights in the MITTAL trade mark prior to registration of the Disputed domain name since he chose to register a domain name which contains the first name of the chairman and chief executive officer of the Complainant.

The Panel agrees with these views of Compainant.

Moreover, the Panel agrees with Complainant that the Disputed domain name has also been registered in an effort to take advantage of the goodwill that Complainant had built up in its trademark, and to unduly benefit from creating a diversion of the internet users of the Complainant by pretending to be an official website of the CEO of Complainant or of Complainant.

Furthermore, the website in connexion with the Disputed domain name is on parking page with commercial links ("PPC") related to the Complainant. Respondent has attempt to attract Internet users for commercial gain to his own website thanks to the Complainant’s trademarks, which is also an evidence of bad faith.

On these grounds, the Panel concludes that the Respondent has registered and is using the Disputed domain name in bad faith.

For the reasons stated above, it is the decision of this Panel that the Complainant has satisfied all three elements of paragraph 4(a) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **LAKSHMIMITTAL.OOO**: Transferred

PANELLISTS

Name	**Jan Christian Schnedler, LL.M.**

DATE OF PANEL DECISION 2018-08-13

Publish the Decision