Decision for dispute CAC-UDRP-102166

Case number	CAC-UDRP-102166
Time of filing	2018-09-18 09:06:30
Domain names	arcelormittalamericas.com

Case administrator

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

Complainant

Organization	ARCELORMITTAL S.A.

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Organization	Domain eRegistration

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceeding that is pending or decided and which relates to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant established that ARCELORMITTAL S.A. is a multinational steel manufacturing corporation, with operations in more than 60 countries.

The Complainant has also established that it is the owner of several registered international and community trademarks including the distinctive wording "ARCELORMITTAL".

The Complainant has also established that it is the owner of several domain names, including the same distinctive wording "ARCELORMITTAL", including <arcelormittal.com>, <arcelor-mittal.com>, <arcelor-mittal.eu>, among others.

The Respondent has not submitted any evidence trying to establish its rights.

FACTUAL BACKGROUND

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

The Complainant established that ARCELORMITTAL S.A. is a multinational steel manufacturing corporation, with operations in more than 60 countries.

The Complainant has also established that it is the owner of several registered international and community trademarks including the distinctive wording "ARCELORMITTAL".

The Complainant has also established that it is the owner of several domain names, including the same distinctive wording "ARCELORMITTAL", including <arcelormittal.com>, <arcelor-mittal.com>, <arcelor-mittal.eu>, among others.

The disputed domain name was registered on September 12th, 2018 and points to the Complainant’s website.

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

1. Identical or confusingly similar

The Complainant contended that the disputed domain name is confusingly similar to its well-known and distinctive trademark ARCELORMITTAL®.The disputed domain name incorporates the Complainant's trademark "Arcelormittal" in full, which is then followed by the word "americas", a geographical identifier. The geographical term "Americas" means the region encompassing both North and South America continents. Due to special meanings contained by geographical terms, any geographical term following the trademark in the disputed domain name is usually considered a factor that is likely to lead to web users' confusion.

In this case, when the disputed domain name contains the Complainant's full trademark "Arcelormittal" followed by the geographical term "Americas", it is likely to confuse consumers who might mistaken the disputed domain name for the Complainant's official website launched for users in the Americas.

In addition, in supporting its argument the Complainant has also cited CAC decision 100367 ARCELORMITTAL vs. Easy Tech, in which the Panel has held the disputed domain name arcelormittal-egypt is confusingly similar to the Complainant's trademark Arcelormittal. Although the current Panel is not bound by early decisions rendered by other Panels, the current Panel considers facts of the two cases similar, and consider the disputed domain name confusingly similar to the Complainant's trademark Arcelormittal.

The Panel therefore concludes that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights within the meaning of paragraph 4(a)(i) of the Policy.

2. Rights of legitimate interests

Although the Respondent did not file an administratively compliant (or any) response, the Complainant is still 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 Complainant established that it does not carry out any activity for, nor has any business with the Respondent. The Complainant has also established that it neither licensed nor authorized the Respondent to make any use of its trademark ARCELORMITTAL®, or apply for registration of the disputed domain name by the Complainant.

On the basis of preponderance of evidence, and in the absence of any evidence to the contrary or any administratively compliant response being put forward by the Respondent, the Panel finds that the Respondent does not have rights or legitimate interests in the disputed domain name within the meaning of paragraph 4(a)(ii) of the Policy.

3. Bad faith

By trying to establish the bad faith element of paragraph 4(a) of the Policy, the Complainant has primarily attempted to rely on paragraph 4(b)(iv) of the Policy, " by using the domain name, you (the Respondent) have intentionally attempted to attract, for commercial gain, internet users to your web site 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 your web site or location or of a product or service on your web site or location."

The Panel is of the opinion that the mere fact that the Respondent has registered the disputed domain name actually knowing the existence of the Complainant's well-known trademark is inconclusive in establishing the Respondent's bad faith. However, in this case, the disputed domain name has been used to direct to the Complainant's own website (corporate.arcelormittal.com). Redirecting internet users to a page of Complainant's own website is usually considered an abusive act by itself, because it creates an impression of association. It also interferes with a Complainant's control over its own website, disturbing the Complainant's property ownership and an unconnected party (the Respondent in this case) has no right to direct the internet traffic, even if it is directed to services of the legitimate owner of the trademark (see Altavista Company v. Brunosousa, aka Bruno Sousa, WIPO decision D2002-0109, in which decision the Panel held that "the suggestion that such redirection will allow the Respondent to divert future users to competing web sites after having built up mistaken confidence in the source of the content is a reasonable one").

Therefore, in the absence of any evidence to the contrary (or any administratively compliant response) being put forward by the Respondent, the Panel determines that the disputed domain name was registered and is being used in bad faith within the meaning of 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. **ARCELORMITTALAMERICAS.COM**: Transferred

PANELLISTS

Name	**Carrie Shang**

DATE OF PANEL DECISION 2018-10-18