Decision for dispute CAC-UDRP-102176

Case number	CAC-UDRP-102176
Time of filing	2018-09-25 10:30:03
Domain names	arcelormittaljobs.com

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	ArcelorMittal (SA)

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Organization	Domain eRegistration

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

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

Complainant also owns the domain name <arcelormittal.com> registered since January 27th, 2006.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT

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 is the owner of the international trademark n°947686 ARCELORMITTAL registered on August 3rd, 2007.

Complainant also owns a domain names portfolio, including the wording ARCELORMITTAL, such as the domain name <arcelormittal.com> registered since January 27th, 2006.

The Disputed domain name was registered on September 18th, 2018, and currently points to a page without content except for the message: “Forbidden You don't have permission to access / on this server. Additionally, a 403 Forbidden error was encountered while trying to use an ErrorDocument to handle the request.”

Complainant is of the opinion that the Disputed domain name is confusingly similar to the Complainant’s trademark ARCELORMITTAL, because it is included in its entirety in the Disputed domain name.

The Complainant contends that the addition of the term “JOBS” is not sufficient to escape the finding that the Disputed domain name is confusingly similar to the trademark ARCELORMITTAL. It does not change the overall impression of the designation as being connected to the Complainant’s trademark ARCELORMITTAL. It does not prevent the likelihood of confusion between the Disputed domain name and the Complainant, its trademark and the domain names associated.

Moreover, the Complainant contends that the addition of the generic Top-Level Domain suffix “.COM” does not change the overall impression of the designation as being connected to the Complainant.

So the Disputed domain name is in the view of Complainant confusingly similar to Complainant’s trademark ARCELORMITTAL.

The Complainant asserts that the Respondent is not commonly known by the Disputed domain name. 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 licence nor authorization has been granted to the Respondent to make any use of the Complainant’s trademark ARCELORMITTAL, or apply for registration of the Disputed domain name by the Complainant.

Furthermore, the Disputed domain name points to a page without content except for the message: “Forbidden You don't have permission to access / on this server. Additionally, a 403 Forbidden error was encountered while trying to use an ErrorDocument to handle the request.” Therefore, the Complainant contends that Respondent did not make any use of Disputed domain name since its registration, and it confirms that Respondent has no demonstrable plan to use the Disputed domain name. This demonstrates in the view of Complainant a lack of legitimate interests in respect of the Disputed domain name.

Thus, in accordance with the foregoing, the Complainant contends that the Respondent has no right or legitimate interest in respect of the Disputed domain name.

The Complainant content that Complainant’s trademark ARCELORMITTAL is widely known. Past panels have confirmed the notoriety of the trademark ARCELORMITTAL in several proceedings. Given the distinctiveness of the Complainant's trademarks and reputation, it is in the view of Complainant reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's trademark. Furthermore, the website in connection with the Disputed domain name is not used since its registration. As prior WIPO UDRP panels have held, the incorporation of a famous trademark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use. Therefore the Complainant contends that the Disputed domain name was registered 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 ARCELORMITTAL.

The Disputed domain name incorporates the whole of the Complainant’s ARCELORMITTAL trademark, and adds the generic term “JOBS" at the end of the Disputed domain name and the gTLD suffix “.com".

Many UDRP panels have found that a disputed domain name is confusingly similar to a complainant’s trademark where the disputed domain name incorporates the complainant’s trademark in its entirety (e.g.Volkswagen AG v. Nowack Auto und Sport - Oliver Nowack, WIPO Case No. D2015-0070 ; Chloé S.A.S. v. DVLPMNT Marketing, Inc., WIPO Case No. 2014-0039). The Panel shares this view in the case at issue where the Complainant’s registered trademark ARCELORMITTAL is fully included in the Disputed domain name and combined with the addition of the generic term "JOBS", and the gTLD suffix “.com”.

The Panel agrees with the Complainant that the addition of the generic term "JOBS" without space or hyphen at the end of the Disputed domain name and the gTLD “.com” is not sufficient to escape the finding that the Disputed domain name is confusingly similar to the Complainant's trademark and does not change the overall impression of the designation as being connected to the trademark ARCELORMITTAL, as the trademark ARCELORMETTAL at the more important beginning of the Disputed domain name is the only distinctive part of the Disputed domain name.

It is the consensus practice of past UDRP panels that TLDs, in this case ""“.com"”", 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 ARCELORMITTAL.

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 two decades after the registration of the trademarks and the domain names of the Complainant and Complainant used it widely since then.

Past panels have confirmed the notoriety of the trademark ARCELORMITTAL (see 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.") and see 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 reputation, it is reasonable to infer that the Respondent has registered the Disputed domain name with full knowledge of the Complainant's trademark.

Moreover, Respondent is not making an active use of the Disputed domain name. The Disputed domain name was registered on September 18th, 2018, and pointed to a page without content except for the message: “Forbidden You don't have permission to access / on this server. Additionally, a 403 Forbidden error was encountered while trying to use an ErrorDocument to handle the request.”

Lastly, it is clear from the selection of the Disputed domain name, that the Respondent has purposely targeted the Complainant's trademark because the chosen combination in the Disputed domain name with the entire and very long distinctive trademark ARCELORMITTAL and the generic word "jobs" will be associated with "jobs" offered by or for Complainant. A different association is hard to find for the Disputed domain name.

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. **ARCELORMITTALJOBS.COM**: Transferred

PANELLISTS

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

DATE OF PANEL DECISION 2018-10-20

Publish the Decision