Decision for dispute CAC-UDRP-102185

Case number	CAC-UDRP-102185
Time of filing	2018-10-03 10:20:43
Domain names	arcelormittalrecruitment.com

Case administrator

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

Complainant

Organization	ArcelorMittal (SA)

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Organization	Domain eRegistration

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

International trademark n° 947686 ARCELORMITTAL registered on August 3, 2007.

FACTUAL BACKGROUND

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

Please see WIPO Case No. D2008-1395, Société Air France v. job recruitment (“The addition of a descriptive word such as “recruitment” does nothing to remove the likelihood of confusion between the Domain Name and the Complainant's mark. Recruitment is an activity that all business entities are likely to undertake, and the Complainant itself devotes an entire website to staff recruitment. If anything, the addition of the word “recruitment” exacerbates the likelihood of confusion. Adding to a complainant's trade mark a word which is descriptive or suggestive of one of a complainant's activities carried out under its mark, is more likely to increase the likelihood of confusion than reduce it”).

Besides, it is well-established that “a domain name that wholly incorporates a Complainant’s registered trademark may be sufficient to establish confusing similarity for purposes of the UDRP”. Please see WIPO Case No. D2003-0888, Dr. Ing. h.c. F. Porsche AG v. Vasiliy Terkin.

Please see for instance:

- FORUM Case No. FA 1363660, Better Existence with HIV v. AAA (“[E]ven though the disputed domain name still resolves to Complainant’s own website, Respondent’s registration of the disputed domain name in its own name fails to create any rights or legitimate interests in Respondent associated with the disputed domain name under Policy ¶ 4(a)(ii).”);

- FORUM Case No. FA 1766366, Lockheed Martin Corporation v. Richard F Ambrose / Lockheed Martin Corporation (“[…] in that the domain name redirects Internet users to Complainant’s own official website. Such a use is indeed neither a bona fide offering of goods or services by means of the domain name under Policy ¶ 4(c)(i) nor a legitimate noncommercial or fair use of it under Policy ¶ 4(c)(iii)”);

- FORUM Case No. FA 1337658, Direct Line Ins. plc v. Low-cost-domain (“The Panel finds that using Complainant’s mark in a domain name over which Complainant has no control, even if the domain name redirects to Complainant’s actual site, is not consistent with the requirements of Policy ¶ 4(c)(i) or ¶ 4(c)(iii) . . .”).

Past panels have confirmed the notoriety of the trademark 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.")

Please see WIPO Case No. DCO2018-0005, ArcelorMittal SA v. Tina Campbell (“The Panel finds that the trademark ARCELORMITTAL is so well-known internationally for metals and steel production that it is inconceivable that the Respondent might have registered a domain name similar to or incorporating the mark without knowing of it.”).

Please see FORUM Case No. FA 1382148, Verizon Trademark Servs. LLC v. Boyiko (“The Panel finds that Respondent’s registration and use of the confusingly similar disputed domain name, even where it resolves to Complainant’s own site, is still registration and use in bad faith pursuant to Policy ¶ 4(a)(iii).”)

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 disputed domain name is confusingly similar to the Complainant's trademark ARCELORMITTAL. Indeed, the trademark is included in its entirety. The addition of the term "RECRUITMENT" is not sufficient to escape the finding that the disputed domain name is confusingly similar because it does not change the overall impression of the designation as being connected to the Complainant's trademark and it does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and the domain names associated.

2. No rights or legitimate interests

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 Panel may decide on the sole base of reasonable and evidence-supported assertions of the Complainant.

There is no reason to believe that the Respondent is known by the disputed domain name. There is no indication that the Respondent is related in any way with the Complainant (and the Complainant denies it as it claims that neither license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark, or apply for registration of the disputed domain name by the Complainant).

Furthermore, the disputed domain name redirects to the Complainant's official website which is - in the absence of any explanation provided by the Repondent - a sign of the absence of a bona fide offering of goods or services by means of the disputed domain name.

3. Bad faith registration and use

The Complainant is (one of) the largest steel producing company in the world, with operations in more than 60 countries. It holds sizeable captive supplies of raw materials and operates extensive distribution networks. 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, the disputed domain name redirects to the Complainant's official website which is - in the absence of any explanation provided by the Respondent - a sign of bad faith use.

The Panel therefore concludes that all three requirements under paragraph 4(a) of the Policy have been satisfied.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ARCELORMITTALRECRUITMENT.COM**: Transferred

PANELLISTS

Name	**Mr. Etienne Wéry**

DATE OF PANEL DECISION 2018-11-09

Publish the Decision