Decision for dispute CAC-UDRP-102186

Case number	CAC-UDRP-102186
Time of filing	2018-10-10 13:52:04
Domain names	aceromittal.com

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	ArcelorMittal (SA)

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Name	david lopez

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

The Complainant has evidenced to be the owner of the following trademark registration:

- Word mark MITTAL, World Intellectual Property Organization (WIPO), Registration No.: 1198046, Registration Date: December 5, 2013, Status: Active.

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 the market leader in steel for use in automotive, construction, household appliances and packaging with operations in more than 60 countries worldwide. The disputed domain name was registered on October 5, 2018 and resolves to a website which reproduces substantial parts (including official logo etc.) of the Complainant's website in connection with its subsidiary in Mexico. Neither a license nor any authorization has been granted by the Complainant to the Respondent to make any use of the Complainant's MITTAL trademark or to apply for registration of the disputed domain name.

Please see WIPO Case No. D2018-1770, Credit Mutuel Arkea v. Sun Xiao Cheng (“Under the circumstances of the present case, the term “bank” is a generic descriptive term as it applies to the areas of business of the Complainant. Therefore, this panel finds that the addition of the generic term “bank” does not prevent a finding that the disputed domain name is confusingly similar to the Complainant’s mark.”)

Please see FORUM Case No. 1649982, DramaFever Corp. v. olxhost c/o olxhost (“Using the domain name in a manner designed to allow Respondent to pass itself off as Complainant is neither a bona fide offering of goods or services under Policy ¶ 4(c)(i), nor a legitimate noncommercial or fair use under Policy ¶ 4(c)(iii).”)

Past panels have confirmed the notoriety of the trademark MITTAL® in the following cases:
- WIPO Case No. D2018-1086, ArcelorMittal S.A. v. Registrant of lakshmimittal.org, c/o WHOIStrustee.com Limited / Zeus Holding Market Ltd. ("The Domain Name wholly incorporates a well-known mark [MITTAL]")
- WIPO Case No. D2010-2049, Arcelormittal v. Mesotek Software Solutions Pvt. Ltd. (“the Complainant’s marks MITTAL and MITTAL STEEL have been widely used and are well-known.”)

Please see FORUM Case No. 1772179, Roundpoint Mortgage Servicing Corporation v. Rene Acevedo (“Further, Respondent had actual notice of Complainant’s rights before registering the disputed domain name: as already noted, Respondent’s logo on the resolving website is almost identical to Complainant’s logo on its own website, and the resolving website references Complainant by name. This is sufficient to demonstrate 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

1. Identical or confusingly similar

The Panel finds that the disputed domain name is confusingly similar to the Complainant’s MITTAL trademark within the meaning of paragraph 4(a)(i) of the Policy, since the disputed domain name incorporates the latter in its entirety and the mere addition of the generic term “acero”, meaning “steel” in the Spanish language, is not capable to dispel the confusing

similarity arising from the Complainant's trademark's incorporation in the disputed domain name.

2. No rights or legitimate interests

Moreover, the Complainant contends, and the Respondent has not objected to these contentions, that the Respondent has neither made use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services, nor is the Respondent commonly known under the disputed domain name, nor is the Respondent making a legitimate non-commercial or fair use of the disputed domain name without intent for commercial gain. The Complainant has provided evidence that the disputed domain name redirects to an active website at "www.aceromittal.com" which obviously copies substantial parts (including official logo etc.) of the Complainant's own website pretending to be the Complainant's Mexican subsidiary with apparently no authorization granted to Respondent to do so, which obviously neither qualifies as a bona fide nor as a legitimate non-commercial or fair use of the disputed domain name. The Panel therefore considers that the Respondent has no rights or legitimate interests in respect of the disputed domain name within the meaning of paragraph 4(a)(ii) of the Policy.

3. Bad faith

Finally, the Complainant argues, and the Panel agrees to this line of argumentation, that the Respondent's making use of the disputed domain name to redirect to a website that somehow copies the Complainant's official website not only is a clear indication that the Respondent has registered the disputed domain name with full knowledge of the Complainant's MITTAL trademark, but also shows that the Respondent obviously registered and is using the disputed domain name intending to attract, for commercial gain, Internet users to the Respondent's own website, by creating a likelihood of confusion with the Complainant's MITTAL trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website. Such circumstances shall be evidence of registration and use of the disputed domain name in bad faith within the meaning of paragraphs 4(b)(iv) and 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. **ACEROMITTAL.COM**: Transferred

PANELLISTS

Name	**Stephanie G. Hartung, LL.M.**

DATE OF PANEL DECISION 2018-11-14

Publish the Decision