Decision for dispute CAC-UDRP-102289

Case number	CAC-UDRP-102289
Time of filing	2019-01-07 11:30:10
Domain names	arcelormittal-globalrd.com

Case administrator

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

Complainant

Organization	ARCELORMITTAL S.A.

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Organization	AM

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other proceedings related to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the international trademark No 947686 ARCELORMITTAL registered on August 3rd, 2007. The Complainant also owns domain names including the same distinctive wording ARCELORMITTAL, such as the domain name <arcelormittal.com>, registered and used since January 27th, 2006. The disputed domain name <arcelormittal-globalrd.com> was registered on December 21, 2018.

FACTUAL BACKGROUND

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

The Complainant contends that it 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.

The disputed domain name is confusingly similar to the Complainant's trademark ARCELORMITTAL. The Complainant contends that the addition of the term "GLOBALRD" (which can refer to "Global Research & Development") 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. The addition of a generic term related to the Complainant and associated to its trademark does not create a new or different right to the mark or diminish confusing similarity. 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”.

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 trademark ARCELORMITTAL. It does not prevent the likelihood of confusion between the disputed domain names and the Complainant, its trademark and its domain names associated.

Many UDRP decisions have confirmed the Complainant’s rights such as WIPO Case No. D2018-0968, WIPO Case No. D2017-2291, WIPO Case No. D2017-2011, WIPO Case No. D2016-1853.

The Respondent does not have any rights or legitimate interest in the disputed domain name.

According to WIPO Case No. D2003-0455 Croatia Airlines d. d. v. Modern Empire Internet Ltd., 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 Complainant is deemed to have satisfied paragraph 4(a) (ii) of the Policy.

The Complainant asserts that the Respondent is not known as the disputed domain name. Past panels have held that a respondent was not commonly known by a disputed domain name if the Whois information was not similar to the disputed domain name. Thus, the Respondent is not known as the disputed domain name. (FORUM Case No. FA 1781783, FORUM Case No. FA 699652).

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 ARCELORMITTAL, or apply for registration of the disputed domain name by the Complainant.

Moreover, before the Complainant’s intervention, this disputed domain name points to an inactive page. 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. It demonstrates 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 disputed domain name has been registered and is being used in bad faith. The Complainant contends that the disputed domain name is confusingly similar to its distinctive trademark ARCELORMITTAL. The Complainant’s trademark ARCELORMITTAL is widely known. Given the distinctiveness of the Complainant's trademarks and reputation, it is reasonable to infer that the Respondent has registered the domain names with full knowledge of the Complainant's trademark (WIPO Case No. DCO2018-0005).

Besides, the disputed domain name is inactive since its registration. Inactively holding a confusingly similar domain name shows bad faith under paragraph 4(a)(iii) of the Policy.

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 (WIPO Case No. D2000-0003, WIPO Case No. D2000-0400).

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

For the Complainant to succeed it must prove, within the meaning of paragraph 4(a) of the Policy, that:

(i) The domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and

(ii) The respondent has no rights or legitimate interests in respect of the domain name; and

(iii) The domain name has been registered and is being used in bad faith.

I. Identical or Confusingly Similar

The Complainant has established the fact that it has valid rights for the international trademark No 947686 ARCELORMITTAL registered on August 3rd, 2007, and that it owns domain names including the same distinctive wording ARCELORMITTAL. The disputed domain name has been registered on December 21st, 2018, i.e. more than 10 years after the trademark registration, and wholly incorporates the Complainant's trademark and is therefore confusingly similar to it.

The term "GLOBALRD" seems to be the combination of generic term "GLOBAL" and letters "R" and "D" which could mean an abbreviation "RD", usually used for the term "research and development". The terms "GLOBAL" or "GLOBALRD" in the disputed domain name do not distinguish the disputed domain name from the Complainant's trademark. The term "ARCELORMITTAL" used in the disputed domain name is placed in the beginning of the domain name and is the dominant element of the domain name. The addition of the geographical top level domain ".COM" does not change the overall impression of the designation as being connected to Complainant's trademark.

The Panel therefore considers the disputed domain name to be confusingly similar to the Complainant's trademark ARCELORMITTAL which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

II. Rights or Legitimate Interests

The Complainant has established a prima facie case (not challenged by the Respondent who did not filed any response to the complaint) that the Respondent has no rights or legitimate interests in the disputed domain name, since the Respondent is not related in any way with the Complainant. There is no website on the disputed domain name and the disputed domain name, therefore, does not constitute a bona fide offering of goods and services or a legitimate non-commercial fair use. The

Respondent has no rights or legitimate interests in the disputed domain name, since there is no indication that the Respondent is commonly known by the term “ARCELORMITTAL” or its variations (the Respondent’s organization name is “AM” without mentioning the form of the organization and it seems to be more likely an abbreviation than the real name of the Respondent) or that the Respondent is using the disputed domain name in connection with a bona fide offering of goods or services.

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.

III. Registered and Used in Bad Faith

Given the distinctiveness of the Complainant's trademark and reputation (as confirmed in several UDRP proceedings in the past - CAC Case No. 101908, ARCELORMITTAL v. China Capital; CAC Case No. 101667, ARCELORMITTAL v. Robert Rudd) it is evident that the Respondent had the Complainant and its trademark in mind when registering the disputed domain name. Furthermore, the website in connection with the disputed domain name is not used since its registration. The incorporation of a famous trademark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use.

Finally, the Panel ascertains that the identity of the Respondent was hidden through an identity protection service Domains By Proxy, LLC before the commencement of this proceedings. Such attempt to hide the identity may be the evidence of bad faith registration and use as well (CAC Case No. 101839, Franke Technology and Trademark Ltd v. Caner Tanaoba).

The Panel therefore considers that 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.

The Panel finally considers that the Complainant has shown that the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights, the Respondent has no rights or legitimate interests in respect of the disputed domain name and the disputed domain name has been registered and is being used in bad faith. The Complainant has thus established 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. **ARCELORMITTAL-GLOBALRD.COM**: Transferred

PANELLISTS

Name	**JUDr. Petr Hostaš**

DATE OF PANEL DECISION 2019-02-04

Publish the Decision