Decision for dispute CAC-UDRP-102300

Case number	CAC-UDRP-102300
Time of filing	2019-01-14 10:37:08
Domain names	arcelormittalcultural.com

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	ArcelorMittal (SA)

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Organization	Trplice Cultural

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

International trademark no. 947686 "ArcelorMittal" registered as a word mark on August 3, 2007.

FACTUAL BACKGROUND

The Complainant is the largest steel producer in the world and has operations in more than 60 countries employing nearly 200,000 staff. Its primary trademark is “ArcelorMittal”, which it registered as an international mark on August 3, 2007. It has also registered domain names containing this mark, including <arcelormittal.com> on January 27, 2006.

A division of the Complainant in Brazil operates a foundation created in 1988 to support social projects under the name "Fundação ArcelorMittal". Its main focus is the training of children and adolescents to become more conscious, productive and participatory citizens. It promotes projects in the areas of education, culture, social promotion and sport.

The disputed domain name was registered on January 7, 2018 and has been directed to a website in Portuguese which invites the enrolment of children from 5 to 10 years old in a promotional campaign for "ArcelorMittal Cultural". The Respondent has no connection with the Complainant and has not been authorised by the Complainant to use the name "ArcelorMittal" or to register any domain name containing it.

PARTIES CONTENTIONS

No 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).

The Complainant has registered rights in the mark "ArcelorMittal" which it has registered as an international trademark since 2007. The disputed domain name is confusingly similar to this mark, from which it differs only in the addition of the descriptive word "cultural" and the generic top level domain name suffix. The word "cultural" is apt to describe some of the activities fostered by the Complainant in Brazil through its Fundação ArcelorMittal. The Panel is satisfied that many Internet users familiar with the Complainant and its operations in Brazil would assume that the disputed domain name locates a website relating to these activities.

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).

The Panel accepts the Complainant's statement that the Respondent is not connected with it in any way and has not been authorised to use the name "ArcelorMittal". The Complainant's use of the disputed domain name is not for a bona fide offering of goods or services or preparations for such an offering. Even if any offering of goods or services is contemplated, it would not be bona fide given the obvious misuse of the Complainant's mark and goodwill to promote the Respondent's unrelated activities. The Respondent is not commonly known by the disputed domain name or any corresponding name. Nor does the Respondent's use constitute a legitimate non-commercial or fair use; on the contrary its use of the disputed domain name is illegitimate and unfair.

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).

The Panel is satisfied that the Respondent has registered and is using the disputed domain name to mislead members of the public into believing that the Respondent is connected with the Complainant and its Foundation in Brazil, either to promote the Respondent's activities by improperly exploiting the Complainant's reputation and goodwill, or to obtain personal information for illegitimate purposes. In either case, the registration and use of the domain name have been in bad faith.

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

The disputed domain name comprises the Complainant's registered mark together with a descriptive term and the generic top level domain suffix. The Respondent has no connection with the Complainant, has not been authorised to use the Complainant's mark, is not commonly known by the disputed domain name, and its use of the disputed domain name has not been bona fide, legitimate or fair. The disputed domain name was registered and is being used in bad faith to mislead members of the public into believing that the Respondent's website is connected with the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ARCELORMITTALCULTURAL.COM**: Transferred

PANELLISTS

Name	**Jonathan Turner**

DATE OF PANEL DECISION 2019-02-23

Publish the Decision