Decision for dispute CAC-UDRP-102325

Case number	CAC-UDRP-102325
Time of filing	2019-01-30 13:06:28
Domain names	arcelcrmittal.com

Case administrator

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

Complainant

Organization	ARCELORMITTAL (SA)

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Name	Rebecca Salimenin

OTHER LEGAL PROCEEDINGS

The Complainant has declared that there are no other legal proceedings, pending or decided, which relate to the disputed domain name. The Panel is not aware of any such proceedings.

IDENTIFICATION OF RIGHTS

The Complainant is the proprietor of the international mark 947686 'ARCELORMITTAL', which was registered on 3 August 2007 (on the basis of Benelux mark 824918, 18 June 2007); the last renewal was in 2017. It is in ten classes, including class 6 (common metals and their alloys), and class 42 (scientific and technological services).

FACTUAL BACKGROUND

The Complainant is a company, with its seat in Luxembourg, which produces and distributes steel, across various countries; it has employees in 60 nations and an industrial presence in 18, and is the largest steel producer in North America. It operates its own website at the domain name <ARCELORMITTAL.COM> (registered 2006).

The Respondent, an individual with an address in the United States of America, registered the disputed domain name on 22 January 2019.

PARTIES CONTENTIONS

No administratively compliant response has been filed. The Respondent did not participate in these proceedings in any

fashion.

The Complainant submits that the disputed domain name is confusingly similar to its trademark, being an obvious misspelling of its trademark. It contends that the Respondent has no rights or legitimate interests in respect of said domain name, and that it was registered in bad faith (with full knowledge of the Complainant's trademark) and is being used in bad faith (through passive holding). It seeks the transfer of the disputed domain name to itself.

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).

Disregarding the gTLD .com, in accordance with usual practice under the UDRP, the only difference between the Complainant's mark and the disputed domain name <arcelcrmittal.com> is the replacement of the letter 'o' in 'ARCELOR' with the letter 'c'. The word 'arcelcr' appears to have no independent meaning. The Complaint proposes that this is a case of 'typosquatting', citing a range of cases where panels have found confusing similarity in respect of other single-character misspellings of its mark (including a recent decision by a Panel at this Provider, CAC Case No. 102222, ARCELORMITTAL S.A. v. Cblanket <arcelonrmittal.com>, where an additional 'n' was inserted in the text 'ARCELOR').

The Panel notes that the present dispute can be understood as falling within the second example of typosquatting found in the WIPO Jurisprudential Overview, version 3.0, para 1.9 ('substitution of similar-appearing characters').

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 Complainant has confirmed that the Respondent is not related to it, has no business connection with it, nor has received any licence or authorisation to make use of the mark in any way.

The Respondent has not participated in the proceedings, and so made no case as to rights or legitimate interests. Moreover, the Respondent is known by the name 'Rebecca Salimenin', which is not connected to the disputed domain name at all.

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 Complainant's mark is well-known. The company has been operating, in its present form, for over 10 years, with a mark continuously held and used during that period. It is highly unlikely that a registrant would identify text such as that in the disputed domain name, and register such a domain name, without knowledge of the Complainant's name and activities.

There is limited evidence of how the disputed domain name is being 'used'. The disputed domain name was only registered on 22 January 2019, and these proceedings were instigated on 25 January 2019. The Complainant included an annex a screenshot, dated 24 January 2019, which demonstrated that the disputed domain name did not resolve to any active web page. The Panel notes that, as of the date of this decision, the same is true.

The Panel takes note of the two cited by the Complainant regarding the interpretation of paragraph 4(a)(iii) of the Policy in these situations. These decisions (WIPO Case No. D2000-1228, Clerical Med. Inv. Group Ltd. v. Clericalmedical.com) and (Forum Case No. FA 95314, Caravan Club v. Mrgsale). There is little detail in these decisions, which are curiously chosen. However, they illustrate a broader approach to 'passive holding', as discussed in the WIPO Jurisprudential Overview, version 3.0, para 3.2 ('Telstra' line of cases), which is appropriate for the present proceedings.

Applying the Telstra criteria, the Panel notes, regarding the degree of distinctiveness or reputation of the Complainant’s

mark, that the mark is distinctive and enjoys an obvious reputation. Due weight is placed upon the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good-faith use. Regarding the implausibility of any good faith use to which the domain name may be put, the Panel has also not identified such a plausible use.

This Respondent must have been aware of the Complainant's rights when it registered the disputed domain name, in light of its well-known nature. In the present case, the combination of the passive holding with the very close similarity between the disputed domain name and the Complainant's mark (in a way that makes no independent linguistic sense) means that the Panel is satisfied that the requirements for finding bad faith have been satisfied.

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

In the absence of any Response from the Respondent, or any other information indicating the contrary, the Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain name. On the other hand, it is clear that the Complainant has rights in respect of the trademark ARCELORMITTAL, and that the disputed domain name is confusingly similar to this mark. In light of the evidence presented by the Complainant, and the legal discussion as set out above, the Panel finds that the disputed domain name was registered and is being used in bad faith. The requirements for the acceptance of a Complaint under paragraph 4 of the Policy have therefore been met.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ARCELCRMITTAL.COM**: Transferred

PANELLISTS

Name	**Prof Daithi Mac Sithigh**

DATE OF PANEL DECISION 2019-03-02

Publish the Decision