Decision for dispute CAC-UDRP-102481

Case number	CAC-UDRP-102481
Time of filing	2019-05-07 08:58:52
Domain names	arcerlomittal.com

Case administrator

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

Complainant

Organization	ARCELORMITTAL (SA)

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Organization	FirstPointPower

OTHER LEGAL PROCEEDINGS

This Panel is not aware of any of other legal proceedings.

IDENTIFICATION OF RIGHTS

The Complainant is the proprietor of the international trademark No. 947686 “ARCELORMITTAL” registered 3 August 2007 in classes 6, 7, 9, 12, 19, 21, 39, 40, 41 and 42 designating numerous countries around the world.

Also, the Complainant has registered a significant domain portfolio, including <arcelormittal.com> which was registered on 27 January 2006.

FACTUAL BACKGROUND

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

Please see prior UDRP cases:

- CAC Case No. 102360, ARCELORMITTAL (SA) v. Milton Liqours lLC <arcelornmittall.com>;

- CAC Case No. 102349, ARCELORMITTAL S.A. v. Arcelormittal <arcelomittal.org>;

- CAC Case No. 102346, ARCELORMITTAL (SA) v. Sani Cermaic <acelormitall.com>.

Please see for instance:

- FORUM Case No. FA 1781783, Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group <bobsfromsketchers.com> (“Here, the WHOIS information of record identifies Respondent as “Chad Moston / Elite Media Group.” The Panel therefore finds under Policy pragraph 4(c)(ii) that Respondent is not commonly known by the disputed domain name under Policy pragraph 4(c)(ii).”).

- FORUM Case No. FA 699652, The Braun Corporation v. Wayne Loney

Please see:

- FORUM Case No. 1765498, Spotify AB v. The LINE The Line / The Line (“Complainant contends the <spotfy.com> domain name differs from the SPOTIFY mark only by the omission of the letter “i" in the mark, and is thus a classic case of typosquatting. […] The Panel finds that Respondent’s registration of the domain name is typosquatting and indicates it lacks rights and legitimate interests in the domain name per Policy pragraph 4(a)(ii).”).

- FORUM Case No. 1597465, The Hackett Group, Inc. v. Brian Herns / The Hackett Group (“The Panel agrees that typosquatting is occurring, and finds this is additional evidence that Respondent has no rights or legitimate interests under Policy pragraph 4(a)(ii).”).

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 for instance:

- WIPO Case No. D2000-0003, Telstra Corporation Limited v. Nuclear Marshmallows;

- WIPO Case No. D2000-0400, CBS Broadcasting, Inc. v. Dennis Toeppen.

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

Confusing similarity:

The disputed domain name differs only from the Complainant's domain name and trademark in that the last letter "R" in ARCELOR of ARCELORMITTAL has been moved three positions to the left up in front of the letter "L" to spell ARCERLO in ARCERLOMITTAL.

This is, according to this Panel, not sufficient to distinguish the disputed domain name from the Complainant's rights, as the overall impression, including the visual, auditive and conceptual, of both the Complainant's rights and the disputed domain name remain quasi-identical and confusingly similar.

Consequently, the Panel – like previous panels – views this to be a clear case of typosquatting and refers in this case to:

- CAC Case No. 102360, ARCELORMITTAL (SA) v. Milton Liqours llC <arcelornmittall.com>;
- CAC Case No. 102349, ARCELORMITTAL S.A. v. Arcelormittal <arcelomittal.org>;
- CAC Case No. 102346, ARCELORMITTAL (SA) v. Sani Cermaic <acelormitall.com>.

As well-established in case-law, the addition of the gTLD ".COM" does not change the overall impression and this panel finds that the disputed domain name is confusingly similar to the Complainant's rights.

No rights or legitimate interest and registration in bad faith

Initially, it has to be noted that the absence of a response from the Respondent does not, in itself, constitute lack of rights or legitimate interest and the Complainant must make out a prima facie case in order for the burden of proof of rights and/or legitimate interest turn to the Respondent.

In this particular case, the Respondent is not commonly known by the disputed domain name or – to the best of this Panel's knowledge – even asserted with the disputed domain name and the Respondent is not related in any way with the Complainant neither by cooperation, license or business in any way.

Secondly, the Complainant's domain name and trademark is quite well-known, as established by previous panels in:

- CAC Case No. 101908, ARCELORMITTAL v. China;

- CAC Case No. 101667, ARCELORMITTAL v. Robert Rudd.

and due to the distinctiveness and reputation of the Complainant's rights, including the insignificant difference between these rights and the disputed domain name, this Panel finds that the Respondent has no rights or legitimate interest in the disputed domain name and that the registration is made in bad faith.

This Panel hereby concludes, in accordance with the Complainant's claim, that the disputed domain name is to be transferred to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ARCERLOMITTAL.COM**: Transferred

PANELLISTS

Name	**Lars Karnoe**

DATE OF PANEL DECISION 2019-06-07

Publish the Decision