Decision for dispute CAC-UDRP-102614

Case number	CAC-UDRP-102614
Time of filing	2019-08-06 11:08:38
Domain names	arcelorm.com

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	ARCELORMITTAL (SA)

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Name	ANIMESH BHAUMIK

OTHER LEGAL PROCEEDINGS

None

IDENTIFICATION OF RIGHTS

International trademark n° 778212 ARCELOR® registered on February 25th, 2002.

FACTUAL BACKGROUND

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

Please see FORUM Case No. FA 1833956, Xerox Corporation v. Sales Xerox / Xerox (“Panels have found that adding one letter to a registered mark does not distinguish a domain name from that mark. See Twitch Interactive, Inc. v. Antonio Teggi, FA 1626528 (Forum Aug. 3, 2015) (finding that twitcch.tv is confusingly similar to the TWITCH TV trade mark because the domain name consisted of a misspelling of the mark by merely adding the letter ‘c’).”)

Please see for instance 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 paragraph 4(a)(ii).”).

Please see for instance:

- FORUM case No. FA 1770024, Samuel J. McRoberts v. DOMAIN ADMINISTRATOR / NAME ADMINISTRATION INC. (“Use of a domain name to redirect Internet users to a site featuring unrelated pay-per-click hyperlinks may not be considered a bona fide offering of goods or services or legitimate noncommercial or fair use.”)
- FORUM case No. FA 970871, Vance Int’l, Inc. v. Abend (concluding that the operation of a pay-per-click website at a confusingly similar domain name does not represent a bona fide offering of goods or services or a legitimate noncommercial or fair use, regardless of whether or not the links resolve to competing or unrelated websites or if the respondent is itself commercially profiting from the click-through fees).

Please see FORUM Case No. FA 917029, Elenie Reese v. Eddie Morgan (“The Panel finds that Respondent’s willingness to sell the <lilpunk.com> domain name for more than its out-of-pocket expenses provides additional evidence that Respondent has no rights or legitimate interests in the disputed domain name pursuant to Policy paragraph 4(a)(ii).”)

Please see for instance:
- WIPO Case No. DME2018-0005, Arcelormittal (SA) v. floyd martins <arcelorsteel.me> (“The trademark ARCELOR is well-known and past UDRP decisions confirmed such circumstance (see, for instance, Arcelormittal v. PrivacyProtect.org / Mr. Singh (tajgroup@avipl.com), Taj Pharmaceuticals Ltd., Taj Group of Companies, WIPO Case No. D2010-0899). A quick search on Google for ARCELOR would have revealed to the Respondent that all the results retrieved are strictly related to the Complainant and its trademark.”)
- CAC Case No. 100756, ARCELORMITTAL S.A. v. Arcelor Staffing Solution (“The statement of the Respondent that he did not have any idea that ARCELOR is a registered trademark cannot be accepted given the fact that ARCELOR is a very well-known trade mark […]”).

Please see FORUM Case No. 157321, Computerized Sec. Sys., Inc. v. Bennie Hu (“The Panel finds that Respondent’s registration and use of a domain name that differs from Complainant’s mark by only one letter indicates “typosquatting”, which is evidence of bad faith registration and use.”).

Please see WIPO Case No. Case No. D2017-2003, Association des Centres Distributeurs E. Leclerc - A.C.D Lec v. Milen Radumilo (“The Panel takes the view that the redirection of the disputed domain name, which is confusingly similar to Complainant's LECLERC trademark, by means of a typical typo-squatting to a generic PPC website in order to generate pay-per-click revenues without Complainant's permission to do so, is a clear indication that Respondent intentionally attempted to attract, for commercial gain, Internet users to his own website, by creating a likelihood of confusion with Complainant's LECLERC trademark as to the source, sponsorship, affiliation or endorsement of Respondent's website. Such circumstances are evidence of registration and use of the disputed domain name in bad faith within the meaning of paragraph 4(b)(iv) of the Policy.”)

Please see FORUM Case No. FA 1623939 Citigroup Inc. v. Kevin Goodman (“Respondent offered the <citi.club> domain name for sale or lease at prices well above even its alleged but unverified acquisition costs. […] Therefore, the evidence shows that Respondent registered <citi.club> primarily for the purpose of transferring it for a profit and demonstrates Respondent’s bad faith registration and use of the <citi.club> domain name pursuant to Policy paragraph 4(b)(i).”)

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

The addition of the letter “M” in the end of the trademark "ARCELOR" is not sufficient to escape the finding that the domain name is confusingly similar to the trademark.

The absence of right or legitimate interest is, in Panel's view, sufficiently established by the combination of (undisputed) following facts:

- the Respondent is not identified in the Whois database as the registrant of the disputed domain name;
- the Respondent 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.

Bad faith registration and use is, in Panel's view, sufficiently established by the combination of (undisputed) following facts:

- Given the distinctiveness of the Complainant's trademarks and reputation, it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's trademark;
- the disputed domain name points to a parking page with commercial links;
- the website associated to the disputed domain name displays a link offering to sell the disputed domain name at the price of USD 6,000.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ARCELORM.COM**: Transferred

PANELLISTS

Name	**Mr. Etienne Wéry**

DATE OF PANEL DECISION 2019-09-20

Publish the Decision