Decision for dispute CAC-UDRP-102625

Case number	CAC-UDRP-102625
Time of filing	2019-08-14 09:00:11
Domain names	arceiormlttal.com

Case administrator

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

Complainant

Organization	ARCELORMITTAL (SA)

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Name	David Lozier

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

The Complainant registered Arcelormittal trademarks, IR No. n° 947686 ARCELORMITTAL, registered on August 3, 2007 which is still valid, registered before the Respondent registered the disputed domain name.

The Complainant also provided evidence that it owns a domain name containing the name <arcelormittal.com> registered since January 27, 2006, registered well before the Respondent registered the disputed domain name.

FACTUAL BACKGROUND

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

The Complainant principally makes the following assertions:

The Complainant is a steel company based in Luxemburg, Luxembourg. The Complainant is active in 60 countries.

The Respondent is an U.S. citizen from Arizona, using a hidden domain holder name (arceiormlttal.com@domainsbyproxy.com), who is represented by his Registry which is based in the United States. On July

7, 2019 the Respondent registered the disputed domain name. He directed the disputed domain name to a parking page offering commercial purposes.

The Complainant, represented by the company Nameshield, filed the Complaint against the Respondent claiming that the Respondent registered the disputed domain name <arceiormlttal.com> without rights or legitimate interest and in bad faith. Therefore the registration should be declared abusive and the disputed domain name transferred to the Complainant.

The Complainant referred to CAC Case No. 102235, AMUNDI ASSET MANAGEMENT v. Fundacion Comercio Electronico and CAC Case No. 102221 (“The Panel agrees that this inversion of letters is a minor variant of Complainant’s trademark, which characterizes typosquatting, where a domain name creates a virtually identical and/or confusingly similar mark to the Complainant’s trademark so that Internet users who misspell Complainant’s trademark when searching for it are diverted to Respondent’s website. Typosquatting was recognized, for instance, in the CAC Case No. 102221, Arcelor Mittal SA v. lykelink, where the disputed domain name <arcelomrittal.com> only slightly varied from the trademark “ARCELOR MITTAL” by the inversion of the letters “R” and “M”.”).

The remedy the Complainant sought concerning the disputed domain name is transfer of the disputed domain name to the Complainant.

The Respondent didn’t react to the Complainant‘s contentions.

In advance see 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 § 4(a)(ii).”) or

- 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 non-commercial 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) or

- WIPO Case No. D2007-1695, Mayflower Transit LLC v. Domains by Proxy Inc./Yariv Moshe ("Respondent’s use of a domain name confusingly similar to Complainant’s trademark for the purpose of offering sponsored links does not of itself qualify as a bona fide use.") or

- FORUM Case No. 1775963, United Rentals, Inc. v. saskia gaaede / Mr (“Complainant submits that Respondent is intending to impersonate Complainant to contact customers of Complainant, posing as a credit supervisor of Complainant, directing customers to transmit payments to a bank account not controlled by Complainant.

Referring to the notoriety of the trademark ARCELORMITTAL it was confirmed 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.")

In addition please see CAC Case No. 101771, BOLLORE v. james white (“Given Respondent‘s e-mail phishing activity impersonating Complainant and directed at a Complainant’s own travel department, It is clear that Respondent was fully aware of Complainant when it registered the disputed domain name.”) or

- WIPO Case No. D2014-1471, Accor v. SANGHO HEO / Contact Privacy Inc. (“The un-opposed allegation of phishing, and the evidence submitted in support of phishing, combined with the likelihood of confusion, is sufficient evidence of bad faith“) or

- FORUM Case No. 1393436, Qatalyst Partners LP and Qatalyst Partners LLP v. Alyna Devimore / N/A (“the Panel holds that Respondent’s registration and use of the <qatalystpartnerslp.com> domain name as part of the phishing scheme described above is sufficient evidence of bad faith registration and use pursuant to Policy § 4(a)(iii)”).

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

This is a clear case of "typosquatting“, i.e. the disputed domain name contains an obvious misspelling of the Complainant’s trademark. Previous panels have found that the slight spelling variations does not prevent a disputed domain name from being confusingly similar to the Complainant’s trademark.

For instance similar is CAC Case No. 102235, AMUNDI ASSET MANAGEMENT v. Fundacion Comercio Electronico. There: “The Panel agrees that this inversion of letters is a minor variant of Complainant’s trademark, which characterizes typosquatting, where a domain name creates a virtually identical and/or confusingly similar mark to the Complainant’s trademark so that Internet users who misspell Complainant’s trademark when searching for it are diverted to Respondent’s website." Typosquatting was recognized, for instance, in the CAC Case No. 102221, Arcelor Mittal SA v. lykelink, where the disputed domain name <arcelomrittal.com> only slightly varied from the trademark “ARCELOR MITTAL” by the inversion of the letters “R” and “M”). Here we have an inversion of the letters "I" and "L". The Panel therefore finds under Policy § 4(c)(ii) that Respondent is not commonly known by the disputed domain name under Policy § 4(c)(ii).

It is well established that TLDs may typically be disregarded in the assessment under paragraph 4(a)(i) of the Policy when comparing disputed domain names and trademark.

The information on <arceiormlttal.com> damages the reputation of the Complainant's products and violates Arcelormittal trademarks.

Therefore, the Panel agrees with Complainant and finds that Respondent does not have rights or legitimate interests in the disputed domain name per Policy § 4(c)(i) or (iii). Especially the disputed domain name is a typical for the phishing scheme described above and is sufficient evidence of bad faith registration and use pursuant to Policy § 4(a)(iii).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ARCEIORMLTTAL.COM**: Transferred

PANELLISTS

Name	**Dr. jur. Harald von Herget**

DATE OF PANEL DECISION 2019-09-20

Publish the Decision