Decision for dispute CAC-UDRP-102648

Case number	CAC-UDRP-102648
Time of filing	2019-08-27 09:53:30
Domain names	aadityamittal.com

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	ARCELORMITTAL S.A.

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Organization	K L Home Appliances

OTHER LEGAL PROCEEDINGS

The Panel is not aware of other legal proceedings related to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the international trademark n°1198046 MITTAL registered on 5 December 2013.

FACTUAL BACKGROUND

The Complainant is the largest steel producing company in the world and is the market leader in steel for use in automotive, construction, household appliances and packaging with operations in more than 60 countries. It holds sizeable captive supplies of raw materials and operates extensive distribution networks.

The disputed domain name <aadityamittal.com> was registered on 13 August 2019 and resolves to an inactive webpage.

There is no information available about the Respondent except for that provided in the Complaint, the Registrar's WhoIs, and the Registrar's response to the Centre's administrative enquiry.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant relies on its rights in the MITTAL trademark, acquired through its above-mentioned trademark registrations and its use of the MITTAL trademark in its steel production business. The Complainant states that it is the successor of Mittal Steel, a business originally set up in 1976 by Sir Aditya Mittal, the president and CFO of the Complainant and CEO of ArcelorMittal Europe. ARCELORMITTAL was created through the merger of ARCELOR and MITTAL STEEL in 2006.

The Complainant contends that the disputed domain name <lakshmimittal.org> (sic) is confusingly similar to its trademark MITTAL. Having considered the context, this Panel treats this statement as a typo and that the Complainant meant <aadityamittal.com> which is the domain name in dispute in these proceedings.

The Complainant submits that the addition of the generic term “Aaditya” is not sufficient to avoid the likelihood of confusion with the Complainant’s trademark as the term “Aaditya” corresponds to the first name of the chairman and chief executive officer of the Complainant. The Complainant contends that therefore, the addition of this word must worsen the confusing similarity between a trademark and a domain name. The Complainant submits that prior UDRP panels have established that the addition of a generic term associated to a trademark does not create a new or different right to the mark or diminish confusing similarity, citing LEGO Juris A/S v. Viktor Tkachev, Lego Town, WIPO Case No. D2016-0239, <lego-town.com> (“The Panel finds that Complainant has trademark rights in the well-known LEGO Mark and that the disputed domain name incorporates Complainant’s trademark in its entirety with the additional elements of a hyphen followed by the word “town” and the use of the gTLD “.com.” None of these additional elements are sufficient to distinguish the disputed domain name from Complainant’s mark.”); and Costco Wholesale Corporation and Costco Wholesale Membership, Inc. v. Kenneth Terrill, WIPO Case No. D2010-2124: “The addition of certain words, as here, can “exacerbate […] the confusing similarity between the [Complainant’s] trademark and the Domain Name and increase […] the risk of confusion between the Domain Name and the […] trademarks.”

Furthermore, the term “Aaditya” corresponds to the first name of the chairman and chief executive officer of the Complainant. Therefore, as prior Panels have held, the Complainant contends that the addition of this word worsen the confusing similarity between a trademark and a domain name.

The Complainant submits that the Respondent has no rights or legitimate interest in the domain name. According to the information available on the Whois database, the owner of the disputed domain name <aadityamittal.com> is “K L Home Appliances". Past panels have held that a Respondent was not commonly known by a disputed domain name if the Whois information was not similar to the disputed domain name.

The Complainant asserts that the Respondent is not related in any way with the Complainant; that the Complainant does not carry out any activity for, nor has any business with the Respondent; that neither license nor authorization has been granted to the Respondent to make any use of the Complainant’s trademark MITTAL, or apply for registration of the disputed domain name by the Complainant and that furthermore, the disputed domain name is inactive and therefore it is not in use for a bona fide offering of goods or services or legitimate non-commercial or fair use.

The Complainant submits that the Complainant contends that Respondent has registered and is using the disputed domain name <aadityamittal.com> in bad faith.

The Complainant submits that 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 trademarks. Moreover, the Complainant also claims that the Respondent knew of Complainant's rights in the MITTAL trade mark prior to registration of the domain name since he chose to register a domain name which contains the name of the president and CFO of the Complainant and CEO of ArcelorMittal Europe, by Sir Aditya Mittal.

The Complainant submits that website in connection with the disputed domain name <aadityamittal.com> is not active. The Complainant contends the Respondent has registered the disputed domain name in order to create a likelihood of confusion with the Complainant.

RESPONDENT: The Respondent made no submissions.

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 Panel is satisfied that the disputed domain name <aadityamittal.com> is confusingly similar to the MITTAL trademark in which the Complainant has rights. Aside from the gTLD domain name extension <.com>, the disputed domain name is almost identical to the name of the Complainant's founder. Sir Aditya Mittal. The Complainant's MITTAL trademark is contained in the disputed domain name in its entirety. This Panel finds therefore that the disputed domain name is confusingly similar to the Complainant's trademark.

The Complainant has made out a prima facie case that the Respondent has no rights or legitimate interest in the disputed domain name. The Complainant has alleged that the Respondent is not commonly known by the disputed domain name; that the Respondent is not related in any way with the Complainant; that the Complainant does not carry out any activity for, nor has any business with the Respondent; that neither license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark MITTAL, or apply for registration of the disputed domain name by the Complainant and that furthermore, the disputed domain name is inactive and therefore it is not in use for a bona fide offering of goods or services or legitimate non-commercial or fair use.

In such circumstances the burden of production shifts to the Respondent and as no Response has been filed, the Respondent has failed to discharge that burden.

It is implausible that the disputed domain name was registered with no knowledge of the Complainant's name and mark. In fact the disputed domain name is almost identical to the Complainant's founder's name.

Furthermore, the disputed domain name resolves to an inactive webpage. The Complainant has submitted that the Respondent has registered the disputed domain name in order to create a likelihood of confusion with the Complainant. This has not been denied.

This Panel finds that given the extensive reputation of the Complainant, that it is so implausible that the registrant of the disputed domain name was unaware of the Complainant and its reputation, the fact that the disputed domain name is almost identical to the Complainant's founder's name and the fact that the Respondent has not filed a Response, the passive

holding is convincing evidence that the disputed domain name was registered and is being used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **AADITYAMITTAL.COM**: Transferred

PANELLISTS

Name	**Mr James Jude Bridgeman**

DATE OF PANEL DECISION 2019-10-22

Publish the Decision