Decision for dispute CAC-UDRP-102654

Case number	CAC-UDRP-102654
Time of filing	2019-08-29 11:47:35
Domain names	tultitlanarcelormittal.com

Case administrator

Name	Lenka Náhlovská (Case admin)

Complainant

Organization	ARCELORMITTAL S.A.

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Name	Luis Patino

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant owns various trademark registrations for the "ArcelorMittal" mark throughout the world, including the international trademark registrations no. 947686, registered on 3 August 2007 for numerous goods and services in classes 06, 07, 09, 12, 19, 21, 39, 40, 41, and 42. This international trademark registration covers a large number of countries (AL, AM, AU, AZ, BA, BY, CH, CN, CU, DZ, EG, EM, GE, IR, IS, JP, KE, KG, KP, KR, KZ, LR, MA, MC, MD, MK, MN, NO, RS, RU, SD, SG, SM, SY, TJ, TR, UA, US, UZ, VN).

The disputed domain name <tultitlanarcelormittal.com> was registered on 15 August 2019, i.e. the Complainant's trademark cited above predates the registration date of the disputed domain name.

FACTUAL BACKGROUND

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

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.

The Respondent uses the disputed domain name for a website displaying the Complainant's trademark ARCELORMITTAL and information regarding the Complainant and its activities. The design of this website aims to create the impression that it is an official website of the Complainant.

The Complainant states that the Respondent is neither affiliated with the Complainant nor authorized by the Complainant in any way. The Complainant states that the Respondent has no right or legitimate interest in the disputed domain name, and that the Respondent is not related in any way to the Complainant's business. The Respondent does not carry out any activity for, nor has any business with the Complainant.

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 disputed domain name is confusingly similar to the Complainant's trademark. The prefix "tultitlan" is a geographical term referring to the Municipality of "Tultitlán" in Mexico and does not prevent a finding of confusing similarity (cf. section 1.8 of the WIPO Jurisprudential Overview 3.0). Further, the addition of the generic top-level domain ".com" does nothing to distinguish the disputed domain name from the Complainant's mark.

The Complainant has made a prima facie showing that the Respondent lacks a right or legitimate interest in the disputed domain name. The Respondent not only registered the disputed domain name long time after the Complainant's rights in the ArcelorMittal mark arose, but has used the disputed domain name for a website that pretends to be an official website operated by the Complainant. The Respondent's unlicensed impersonation and passing-off evidently does not constitute a bona fide offering of goods and services, and also does not constitute a legitimate or non-commercial fair use (cf. section 2.13.1 of the WIPO Jurisprudential Overview 3.0). There is also no evidence that the Respondent is commonly known by the disputed domain name. Accordingly, the Panel accepts the arguments and evidence advanced by the Complainant that the Respondent has no rights or legitimate interests in the disputed domain name within the meaning of paragraphs 4(a)(ii) and 4(c) of the Policy.

Registration and use of the disputed Domain name for the unlicensed impersonation and passing-off is an evident case of registration and use of the disputed domain name in bad faith for the purposes of paragraph 4(a)(iii) of the Policy. By using the domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to his website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the website, paragraph 4(b)(iv) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **TULTITLANARCELORMITTAL.COM**: Transferred

PANELLISTS

Name	**Dr. Thomas Schafft**

DATE OF PANEL DECISION 2019-11-03

Publish the Decision