Decision for dispute CAC-UDRP-102749

Case number	CAC-UDRP-102749
Time of filing	2019-10-25 09:37:16
Domain names	arcelormittalca.com

Case administrator

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

Complainant

Organization	ARCELORMITTAL (SA)

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Organization	Arcelor

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

The Complainant owns international trademark registration No 947686 ARCELORMITTAL, registered on 3 August 2007. The Complainant is further the owner of a domain name portfolio, including the domain <arcelormittal.com>, registered on 27 January 2006, which is connected to the official website of the Complainant.

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 registered the disputed domain name <arcelormittalca.com> on 16 October 2012.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown that 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 failed to show, to the satisfaction of the Panel, that the Respondent has 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 failed to show, to the satisfaction of the Panel, that 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 Panel finds that the disputed domain name <arcelormittalca.com> is confusingly similar to the Complainant's trade mark. The disputed domain name wholly incorporates the Complainant's registered trade mark. (See, for example, WIPO Case No D2003-0888, Dr Ing hc F Porsche AG -v- Vasiliy Terkin, in support of the argument that a domain name that wholly incorporates a complainant's trade mark may be sufficient to establish confusing similarity for the purposes of the UDRP). The Panel further accepts the Complainant's submission that the addition of the abbreviation "CA" (for Centroamerica) does not change the overall impression of the designation as being connected with the Complainant's trade mark and may indeed add to the likelihood of confusion because the Complainant is present in Central America, in particular, in Costa Rica.

However, a Respondent's failure to respond to the Complainant's contentions does not automatically result in the complaint succeeding. The Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests in respect of the disputed domain name and the disputed domain name has been registered and is being used in bad faith. The Panel finds that the Complainant has failed to make out such a prima facie case for the following reasons.

The Complainant asserts that the Respondent has no rights or legitimate interest in the disputed domain name because:

(1) The Respondent is not known by the disputed domain name.

(2) No licence or authorisation has been granted to the Respondent to make use of the Complainant's trade mark or apply for registration of the disputed domain name.

(3) The Respondent is not related to and has no business with the Complainant.

(4) The disputed domain name points to a page without content except for an error message.

The Complainant further asserts that the disputed domain name has been registered and is being used in bad faith inter alia because the disputed domain name is currently inactive and it is not possible to conceive of any plausible actual or contemplated active use of the disputed domain name by the Respondent that would not be illegitimate.

By non-standard communication dated 20 November 2019, the Panel pointed out to the Complainant that its submissions as outlined above did not appear to be correct to the extent that:

(1) The registrant of the disputed domain name and Respondent in these administrative proceedings is Arcelormittal in Costa Rica, which appeared to be connected with the Complainant, given that the Complainant acknowledges that it has a presence in Costa Rica.

(2) The Respondent's e-mail address "danny.montes@arcelormittal.com" reinforces the apparent link between the Complainant and the Respondent.

(3) The disputed domain name <arcelormittalca.com> as at that date was not inactive but linked to what appears to be a genuine website of Arcelormittal Costa Rica.

Against this background, the Panel requested the Complainant to clarify whether there is a link between the Complainant and the Respondent, or whether this is alleged to be a case of identity theft or other form of abusive conduct by the Respondent. The Panel further requested that any further submissions in this regard should be supported by evidence.

No response or further submissions were received by the Complainant in response to the Panel's request, whether by the deadline set by the Panel or at all. Paragraph 14(a) of the Rules clarifies that, in the event that a party, in the absence of exceptional circumstances, does not comply with any of the time periods established by the Rules or the Panel, the Panel shall proceed to a decision on the complaint. Furthermore, paragraph 14(b) of the Rules states that, if a party, again in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, the Rules or any request from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate.

For these reasons, the Panel finds that the Complainant failed to show a prima facie case that the Respondent lacks rights or legitimate interests in respect of the disputed domain name and the disputed domain name has been registered and is being used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Rejected

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

1. **ARCELORMITTALCA.COM**: Remaining with the Respondent

PANELLISTS

Name	**Gregor Kleinknecht**

DATE OF PANEL DECISION 2019-12-04

Publish the Decision