Decision for dispute CAC-UDRP-102835

Case number	CAC-UDRP-102835
Time of filing	2019-12-30 09:44:59
Domain names	arcelormittell.com

Case administrator

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

Complainant

Organization	ARCELORMITTAL (SA)

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Name	Osama Osama

OTHER LEGAL PROCEEDINGS

None of which the Panel is aware.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the international trademark n° 947686 ARCELORMITTAL® registered on August 3, 2007.

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.

The disputed domain name <arcelormittell.com> was registered on December 18, 2019. It does not resolve to an active website.

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, including CAC's compliance with § 2 of the Rules, and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

The disputed domain name <arcelormittell.com> is confusingly similar to the Complainant's registered ARCELORMITTAL trademark, the replacement of the letters "AL" with the letters "ELL" being insufficient to distinguish the disputed domain name from the mark. See CAC Case No. 102747, ARCELORMITTAL (SA) v. damendes <arcellormitttal.com>; CAC Case No. 102703, ARCELORMITTAL (SA) v. Pares <aarcelormittal.com>; and CAC Case No. 102647, ARCELORMITTAL S.A. v. Fundacion Comercio Electronico <acelormital.com>.

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. Once such prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the disputed domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a) (ii) of the Policy.

The Complainant asserts that the Respondent is identified in the Whois database as “Osama Osama”. Thus, the Respondent is not known by the disputed domain name. The Respondent is not related in any way to the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent. Neither licence nor authorization has been granted by the Complainant to the Respondent to make any use of the Complainant’s trademark or apply for registration of the disputed domain name, which is a typosquatted version of the trademark. The Respondent has not made any use of disputed domain name since its registration, and this confirms that the Respondent has no demonstrable plan to use it. Thus, the Complainant contends that the Respondent has no right or legitimate interest in respect of the disputed domain name.

The Complainant's assertions suffice to establish a prima facie case of absence of rights or legitimate interests in respect of the disputed domain name on the part of the Respondent. The Respondent has made no response. In the circumstances the Panel finds that the Complainant has established this element.

As to bad faith, the Panel accepts the Complainant's contention that its trademark ARCELORMITTAL® is widely known, as has been recognized 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."); CAC Case No. 101667, ARCELORMITTAL v. Robert Rudd ("The Panel is convinced that the Trademark is highly distinctive and well-established.").

Given the distinctiveness of the Complainant's trademark and reputation, the Panel infers that the Respondent registered the disputed domain name with full knowledge of the Complainant's trademark and that the misspelling of the trademark ARCELORMITTAL® was intentionally designed to be confusingly similar to that mark.

In the absence of an active website to which the disputed domain name resolves, the Respondent has not demonstrated any

activity in respect of the disputed domain name, and it is not possible to conceive of any plausible actual or contemplated active use of it by the Respondent that would not be illegitimate. As prior WIPO UDRP panels have held, the incorporation of a famous mark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use. See WIPO Case No. D2000-0003, Telstra Corporation Limited v. Nuclear Marshmallows; and see WIPO Case No. D2000-0400, CBS Broadcasting, Inc. v. Dennis Toeppen.

For these reasons, the Panel finds that the Respondent has registered the disputed domain name and is using it in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ARCELORMITTELL.COM**: Transferred

PANELLISTS

Name	**Alan Limbury**

DATE OF PANEL DECISION 2020-01-26

Publish the Decision