Decision for dispute CAC-UDRP-102828

Case number	CAC-UDRP-102828
Time of filing	2019-12-23 09:17:48
Domain names	arcelormittalca.com

Case administrator

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

Complainant

Organization	ARCELORMITTAL S.A.

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Organization	Arcelor

OTHER LEGAL PROCEEDINGS

There are no other legal proceedings the Panel is aware of which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the international trademark registration no. 947686 "ARCELORMITTAL", granted on August 3, 2007.

Likewise, the Complainant also owns the domain name <ARCELORMITTAL.COM>, registered on January 27, 2006.

FACTUAL BACKGROUND

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

- The Complainant owns the trademark "ARCELORMITTAL", subject to international trademark registration no. 947686, granted back in 2007.

- The Respondent has registered the disputed domain name <ARCELORMITTALCA.COM> in 2012, which, as of this day, has been used in connection with a website making reference to the Complainant and its services.

- The Complainant contends that the Respondent uses the domain name <ARCELORMITTALCA.COM> in order to create a likelihood of confusion.

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 IDENTICAL OR CONFUSINGLY SIMILAR TO THE COMPLAINANT`S TRADEMARK

The Panel finds that the disputed domain name <ARCELORMITTALCA.COM> is confusingly similar to the trademark “ARCELORMITTAL” and to the relative domain name <ARCELORMITTAL.COM> registered by the Complainant, which has proven to have prior rights since 2006-2007.

In particular, the Panel agrees that the addition of a geographic abbreviation such as “CA” (very likely a reference to “Central America”) is not sufficient to avoid the finding that the disputed domain name actually is confusingly similar to the trademark ARCELORMITTAL.

As a matter of fact, not only the addition of "CA" does not change the overall impression of the wording at issue, but it even worsens the likelihood of confusion between the disputed domain name and the Complainant’s trademark ARCELORMITTAL, considering that the Complainant has well-demonstrated businesses also in Central America, namely in Costa Rica, right where the Respondent is located.

In this regard, similar decisions issued by Panelists of CAC confirmed the above circumstance (see, among others, CAC Case No. 102535, ARCELORMITTAL (SA) v. Todd Peter <canada-arcelormittal.com>).

THE RESPONDENT HAS NO RIGHTS OR LEGITIMATE INTERESTS IN RESPECT OF THE DISPUTED DOMAIN NAME

According to the information provided by the Complainant, the Respondent is not affiliated nor authorized by the Complainant in any way. Likewise, the Complainant neither licensed nor authorized the Respondent to make any use of its trademark “ARCELORMITTAL”, or to apply for registration of the disputed domain name on behalf of the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent.

It is undeniable that Complainant is only 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, respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the respondent fails to do so, the complainant is deemed to have satisfied paragraph 4(a) (ii) of the Policy.

Given all the above and taken into account the fact that the Respondent did not provide any response within the present proceeding, the Panel accepts the contentions of the Complainant that the Respondent has no such rights or legitimate interests in the disputed domain name.

THE DISPUTED DOMAIN NAME HAS BEEN REGISTERED AND IS BEING USED IN BAD FAITH

The Panel finds that the Complainant successfully submitted prima facie evidence that the Respondent has made no use of, or demonstrable preparations to use, neither of the disputed domain name in connection with a bona fide offering of goods or services, nor is making a legitimate non-commercial or fair use of the disputed domain name.

It is quite clear in the present case that the Respondent is using the disputed domain name to pass itself off as Complainant, using the latter's trademark, graphics, layouts, etc. Such conduct is definitely an evidence of bad faith (see, among others, Morgan Stanley v. Bruce Pu, FA 1764120 (Forum Feb. 2, 2018).

In particular, it is reasonable to infer that the Respondent registered the disputed domain name with full knowledge of the Complainant's trademark.

In the absence of a response from the Respondent and given the reputation of the Complainant and its trademark (notoriety of the trademark ARCELORMITTAL has actually been confirmed in many CAC decisions, including CAC Case No. 101908, ARCELORMITTAL v. China Capital and CAC Case No. 101667, ARCELORMITTAL v. Robert Rudd), the Panel infers that the Respondent had the Complainant's trademarks "ARCELORMITTAL" in mind when registering the disputed domain name. Consequently, the Panel believes that the same 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. **ARCELORMITTALCA.COM**: Transferred

PANELLISTS

Name	**Tommaso La Scala**

DATE OF PANEL DECISION 2020-02-04

Publish the Decision