Decision for dispute CAC-UDRP-102853

Case number	CAC-UDRP-102853
Time of filing	2020-01-13 12:40:57
Domain names	arcelromital.com

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	ARCELORMITTAL (SA)

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Organization	southcompanypty

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the international trademark n°947686 "ArcelorMittal", registered on August 3, 2007 and also owns an domain names portfolio, including the same distinctive wording "ArcelorMittal, such as the domain name <arcelormittal.com> registered since January 27, 2006.

FACTUAL BACKGROUND

The Complainant contends to be the world's largest steel producer and market leader in steel for use in the fields of automotive, construction, household appliance and packaging industries with branches in more than 60 countries.

The Complainant further asserts that:

- the Respondent is not known as by the disputed domain names, but as “southcompanypty”, and has not acquired trademarks rights or a license on "ArcelorMittal";
- the Complainant does not carry out any activity for, nor has any business with the Respondent. Neither license nor authorization has been granted to the Respondents to make any use of the Complainant’s trademark "ArcelorMittal", or apply for registration of the disputed domain names by the Complainant;

- the Respondent was aware of the Complainant when registering and subsequently using the disputed domain name.

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

According to paragraph 4(a) of the UDRP Policy the Complainant must prove for the requested transfer of the disputed domain name that:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
(ii) the Respondent has no rights or legitimate interests in respect to the disputed domain name; and
(iii) the disputed domain name has been registered and is being used in bad faith.

There is no reasonable doubt that the Complaint complies with all these requirements:

(i)

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 (Jan 7, 2020) and is widely well-known.

The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark "ArcelorMittal", as the inversion of the letters “O” and “R” and the deletion of the letter “T” are not sufficient to avoid the likelihood of confusion with the Complainant’s trademark. A slight spelling variations of the trademark "ArcelorMittal" do not prevent a disputed domain name from being confusingly similar to the Complainant’s trademark.

ii)

Furthermore the Complainant provided prima facie evidence that the Respondent has no rights or legitimate interests in the disputed domain name. As asserted by the Complainant (and unchallenged by the Respondent), the Respondent is not commonly known by the disputed domain names. Neither is the Respondent in any way related to the Complainant. The Respondent failed to provide any information and evidence that it has relevant rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a) (ii) of the Policy).

In lack of any response from the Respondent, or any other information indicating the contrary, the Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain names.

(iii)

For a Complainant to succeed, a panel must be satisfied that the disputed domain names have been registered and are being used in bad faith ([(Policy, paragraph 4(a)(iii))].

The Complainant's trademark is well-known. The Panel finds it hard to believe that the Respondent would have chosen and registered the disputed domain name in good faith, without having been aware of the Complainant.

The Complainant points out the following circumstances as material to determine the Respondent’s bad faith in the use of the disputed domain name:

- the Complainant never authorised the Respondent to reproduce its trademark in the disputed domain name and the available evidence does not show whatsoever actual or contemplated good faith use of the disputed domain name;

- taking into account the nature of the disputed domain name, namely the typosquatting excludes any plausible actual or contemplated active use of the disputed domain names by the Respondent that would not be in bad faith.

For the reasons mentioned above the Panel finds, that the disputed domain name has been registered and is being used in bad faith under paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ARCELROMITAL.COM**: Transferred

PANELLISTS

Name	**Prof. Dr. Lambert Grosskopf, LL.M.Eur.**

DATE OF PANEL DECISION 2020-02-11

Publish the Decision