

Decision for dispute CAC-UDRP-103862

Case number	CAC-UDRP-103862
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Time of filing	2021-06-14 10:40:05
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Domain names	arcelormittal.com
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Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
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Complainant

Organization	ARCELORMITTAL (SA)
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Complainant representative

Organization	Nameshield (Enora Millocheau)
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Respondent

Organization	Purchase Holiseum
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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 has evidenced to be the owner of the following trademark registration:

- Word mark (IR) "ArcelorMittal", World Intellectual Property Organization (WIPO), Registration No.: 47686, Registration Date: August 3, 2007, Status: Active.

FACTUAL BACKGROUND

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

Please see for instance WIPO Case No. D2020-0865, Sodexo v. Contact Privacy Inc. Customer 1246780534 / Chivers Michael ("It is well established among UDRP panelists appointed under the Policy that a domain name containing an intentional misspelling of a trademark, including the use of non-Latin internationalized or accented characters, is confusingly similar to the trademark in question").

Please see for instance NAF Case No. FA 1781783, Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite

Media Group <bobsfromsketchers.com> (“Here, the WHOIS information of record identifies Respondent as “Chad Moston / Elite Media Group.” The Panel therefore finds under Policy paragraph 4(c)(ii) that Respondent is not commonly known by the disputed domain name under Policy paragraph 4(c)(ii).”)

Please see Forum Case No. 1597465, The Hackett Group, Inc. v. Brian HERNs / The Hackett Group (“The Panel agrees that typosquatting is occurring, and finds this is additional evidence that Respondent has no rights or legitimate interests under Policy paragraph 4(a)(ii).”).

Please see for instance:

- Forum Case No. FA 1363660, Better Existence with HIV v. AAA (“[E]ven though the disputed domain name still resolves to Complainant’s own website, Respondent’s registration of the disputed domain name in its own name fails to create any rights or legitimate interests in Respondent associated with the disputed domain name under Policy paragraph 4(a)(ii).”);
- Forum Case No. FA 1766366, Lockheed Martin Corporation v. Richard F Ambrose / Lockheed Martin Corporation (“[...] in that the domain name redirects Internet users to Complainant’s own official website. Such a use is indeed neither a bona fide offering of goods or services by means of the domain name under Policy paragraph 4(c)(i) nor a legitimate noncommercial or fair use of it under Policy paragraph 4(c)(iii).”);
- Forum Case No. FA 1337658, Direct Line Ins. plc v. Low-cost-domain (“The Panel finds that using Complainant’s mark in a domain name over which Complainant has no control, even if the domain name redirects to Complainant’s actual site, is not consistent with the requirements of Policy paragraph 4(c)(i) or paragraph 4(c)(iii) . . .”).

Past panels have confirmed the notoriety of the trademark ARCELORMITTAL® 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.”)

Please see Forum Case No. FA 877979, Microsoft Corporation v. Domain Registration Philippines (“In addition, Respondent’s misspelling of Complainant’s MICROSOFT mark in the <microsoft.com> domain name indicates that Respondent is typosquatting, which is a further indication of bad faith registration and use pursuant to Policy paragraph 4(a)(iii).”)

Please see NAF Case No. FA 1382148, Verizon Trademark Servs. LLC v. Boyiko (“The Panel finds that Respondent’s registration and use of the confusingly similar disputed domain name, even where it resolves to Complainant’s own site, is still registration and use in bad faith pursuant to Policy paragraph 4(a)(iii).”)

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 Panel finds that the disputed domain name <arcelormittal.com> is confusingly similar to the Complainant's ArcelorMittal trademark, since the disputed domain name incorporates the latter in its entirety and the mere substitution of the letter "i" by the IDN letter "ï" constitutes an obvious misspelling of Complainant's ArcelorMittal trademark. Numerous UDRP panels have recognized that incorporating a trademark in its entirety can be sufficient to establish that the disputed domain name is at least confusingly similar to a registered trademark. Moreover, it has been held in many UDRP decisions and has meanwhile become a consensus view among UDRP panels that a domain name which consists of a common, obvious or intentional misspelling of the complainant's trademark (i.e. a typo-squatting) is still considered to be confusingly similar to the relevant trademark for purposes of the first element under the UDRP. Accordingly, the fact that the disputed domain name obviously includes an intentional misspelling/typo-squatting of the Complainant's ArcelorMittal trademark is not at all inconsistent with the finding of confusing similarity, especially given the fact that the Complainant's ArcelorMittal trademark is still easily recognizable within the disputed domain name.

Moreover, the Complainant contends, and the Respondent has not objected to these contentions, that the Respondent has neither made use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services, nor is the Respondent commonly known under the disputed domain name, nor is the Respondent making a legitimate non-commercial or fair use of the disputed domain name without intent for commercial gain. The Complainant has provided evidence that the disputed domain name redirects to the Complainant's own official website at "www.arcelormittal.com" with apparently no authorization granted to the Respondent to do so, which obviously neither qualifies as a bona fide nor as a legitimate non-commercial or fair use of the disputed domain name under the UDRP.

Finally, the Complainant argues, and the Panel agrees to this line of argumentation, that the Respondent's making use of the disputed domain name to redirect to the Complainant's own official website at "www.arcelormittal.com" - without any authorization to do so - is at least a clear indication that the Respondent has registered the disputed domain name with full knowledge of the Complainant's ArcelorMittal trademark and that the disputed domain name aims at targeting such trademark. Also, given the fact that the disputed domain name constitutes an obvious misspelling of the Complainant's ArcelorMittal trademark caused by the mere substitution of the letter "i" by the IDN letter "ï" leaves little, if no doubts that the Respondent, by registering and making use of the disputed domain name, had the intention to somehow unjustifiably profit from the undisputed reputation attached to the Complainant's ArcelorMittal trademark. Such circumstances shall be evidence of registration and use of the disputed domain name in bad faith within the larger meaning of paragraph 4(b) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ARCELORMİTTAL.COM**: Transferred
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PANELLISTS

Name	Stephanie G. Hartung, LL.M.
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DATE OF PANEL DECISION	2021-07-19
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Publish the Decision
