

Decision for dispute CAC-UDRP-103895

Case number	CAC-UDRP-103895
-------------	-----------------

Time of filing	2021-06-30 08:44:22
----------------	---------------------

Domain names	arcelormittasl.com
--------------	--------------------

Case administrator

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

Complainant

Organization	ARCELORMITTAL S.A.
--------------	--------------------

Complainant representative

Organization	Nameshield (Laurent Becker)
--------------	-----------------------------

Respondent

Name	Laura Porter
------	--------------

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 submitted evidence that it is the registered owner of the following trademark (hereafter: the "ArcelorMittal Trademark"): International trademark registration n. 947686 "ARCELORMITTAL" (word trademark, registered on August 3, 2007, valid for classes 6, 7, 9, 12, 19, 21, 39, 40, 41 and 42 in various countries, including the U.S.).

FACTUAL BACKGROUND

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

The Complainant is a well-known steel production company which is active worldwide, specializing in the production of steel for cars, the construction industry, household appliances, packaging, etc. The Complainant asserts that, in 2020, ArcelorMittal produced roughly 71.5 million tonnes of crude steel.

The Complainant has submitted evidence that it is the registered owner of the ArcelorMittal Trademark, mentioned above under "Identification of rights".

The Complainant also submitted evidence that it is the registered owner ('Registrant Organization') of the following domain name consisting of the ArcelorMittal Trademark: <arcelormittal.com>, which was registered on January 27, 2006.

The disputed domain name was registered on June 24, 2021.

The Complainant has demonstrated that, at the time of filing its complaint, the disputed domain name refers to an empty webpage.

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

1. Identical or confusingly similar

The disputed domain name <www.arcelormittasl.com> consists of the Complainant's ArcelorMittal Trademark, with the addition of the letter 's' (between the letters 'a' and 'l') and the ".com" suffix.

The Panel finds that the mere addition of the letter 's' in the disputed domain name does not sufficiently change the overall impression of confusing similarity to the ArcelorMittal Trademark.

There is also the addition of the ".com" suffix, which, in this case, can be disregarded when it comes to considering whether the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

The Respondent did not file an administratively complaint (or any) response.

The Panel concludes that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights within the meaning of paragraph 4(a)(i) of the Policy.

2. Rights or legitimate interests

As regards paragraph 4(a)(ii) of the Policy, while the overall burden of proof rests with the Complainant, it is commonly accepted that this should not result in an often-impossible task of proving a negative. Therefore, numerous previous panels have found

that the complainant is required to make out a prima facie case that the respondent lacks rights or legitimate interests. Once such prima facie case is made, the burden of production shifts to the respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such appropriate allegations or evidence, the complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the Policy. If the respondent does come forward with some allegations or evidence of relevant rights or legitimate interests, the panel then has to weigh all the evidence, with the burden of proof always remaining on the complainant.

The Complainant contends that:

- (1) The Respondent is not known as the disputed domain name.
- (2) The Respondent has no rights or legitimate interests in respect of the disputed domain name, and is not related to the Complainant in any way.
- (3) The Complainant does not carry out any activity for, nor has any business with the Respondent. The Complainant has not given a license or authorization to the Respondent to make any use of the Complainant's ArcelorMittal Trademark, or to apply for registration of the disputed domain name.
- (4) The disputed domain name is a 'typosquatted' version of the ArcelorMittal trademark.
- (5) The disputed domain name is not being used at the time of filing the complaint, which means that the Respondent is not making a bona fide offering of goods or services by means of the disputed domain name, or a legitimate non-commercial or fair use of it.

The contentions of the Complainant are not disputed by the Respondent (the Respondent did not file a response).

The Panel finds that the Complainant has at least made a prima facie case that the Respondent does not have rights or legitimate interests in the disputed domain name.

This finding is based on a combination of the following facts and arguments:

- (1) the Respondent does not seem to be related to the Complainant, and seems not to have received any license or authorization to use the ArcelorMittal Trademark or any variation of it such as 'ARCELORMITTASL';
- (2) the Respondent does not seem to be commonly known by the disputed domain name; and
- (3) there is no evidence that the Respondent is making a legitimate non-commercial or fair use of the disputed domain name (or has any future plans to do so).

The Panel notes that the contentions of the Complainant are not contested by the Respondent. The Respondent did not provide evidence that it has rights or legitimate interests in the disputed domain name (the Respondent could, inter alia, have provided evidence of the factors mentioned in paragraph 4(c) of the Policy, but did not do so).

On the balance of probabilities, and in the absence of any evidence to the contrary or any administratively compliant response being put forward by the Respondent, the Panel finds that the Respondent does not have any rights or legitimate interests in the disputed domain name within the meaning of paragraph 4(a)(ii) of the Policy.

3. Bad faith registration and use

The Complainant asserts that its ArcelorMittal Trademark is distinctive and widely known, and that previous panels (including a panel of the CAC) have confirmed this.

The Complainant contends that the Respondent has registered the disputed domain name with full knowledge of the ArcelorMittal Trademark, and that the misspelling of the ArcelorMittal trademark was intentional (i.e., the Respondent intended to create confusion with the Complainant's ArcelorMittal Trademark). The Complainant further contends that the disputed domain name is not being used for any bona fide offering of goods and/or services, and that it is likely that the Respondent has registered or acquired the domain name primarily to create a likelihood of confusion with the ArcelorMittal Trademark.

The Respondent did not file any response.

The Panel finds that, on the balance of probabilities, it may be expected that the Respondent had knowledge of the existence of the Complainant and its activities, of the existence of the Complainant's ArcelorMittal Trademark, and of the scope of this trademark. The domain name selected by the Respondent (<arcelormittasl.com>) seems only selected for its confusing similarity to the Complainant's registered ArcelorMittal Trademark.

The Panel points to the fact that the Complainant has trademark rights to the name "ArcelorMittal" for several goods and services in various countries around the globe, including the Respondent's home country, the U.S. The registration of the Complainant's ArcelorMittal Trademark predates the registration of the disputed domain name. The term "Arcelormittasl", selected by the Respondent, seems to have no meaning in any language (including in English, the main language of the Respondent's home country). This term seems selected only for its confusing similarity to the Claimant's registered ArcelorMittal Trademark. Indeed, the disputed domain name is confusingly similar to the ArcelorMittal Trademark. The disputed domain name consists of the Complainant's ArcelorMittal Trademark, with the mere addition of the letter 's' (between the letters 'a' and 'l') and of the ".com" suffix.

In light of these facts, combined with the international business presence of the Complainant, it seems unlikely that the Respondent would not have been aware of the unlawful character of the disputed domain name at the time of its registration and use.

The Panel believes that this is a typical case of typosquatting.

The Panel finds that, in this case, the Respondent's purported inactivity of the disputed domain name cannot be seen as an indication of bad faith on itself, given the fact that the complaint was filed relatively shortly after the registration of the disputed domain name. In general, the Panel is of the opinion that a respondent should be given a reasonable amount of time to start making active use of a domain name, without the inactive status of the domain name being used against him/her as evidence of bad faith (this always depends on the specific circumstances of the case).

Nonetheless, in the absence of any evidence to the contrary (or any administratively compliant response) being put forward by the Respondent, the Panel believes from the facts in this case that the Respondent had the ArcelorMittal Trademark of the Complainant in mind when registering and subsequently using the disputed domain name.

For all of the reasons set out above, the Panel determines that the disputed domain name was registered and is being used in bad faith within the meaning of 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. ARCELORMITTASL.COM: Transferred

PANELLISTS

Name **Bart Van Besien**

DATE OF PANEL DECISION 2021-08-02

Publish the Decision