

Decision for dispute CAC-UDRP-104035

Case number	CAC-UDRP-104035
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Time of filing	2021-09-27 09:27:14
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Domain names	arcelormittal.com
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Case administrator

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

Organization	ARCELOMITTAL (SA)
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Complainant representative

Organization	NAMESHIELD S.A.S.
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Respondent

Organization	dav ltd
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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 is the owner of the international trademark n° 947686 ARCELOMITTAL® registered on August 3, 2007.

The Complainant claims that its ARCELOMITTAL trademark is well-known and distinctive.

FACTUAL BACKGROUND

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

The Complainant, ARCELOMITTAL S.A., is a company specialized in steel producing and the largest steel producing company in the world. It is the market leader in steel for use in automotive, construction, household appliances and packaging with 71.5 million tonnes crude steel made in 2020. It holds sizeable captive supplies of raw materials and operates extensive distribution networks.

The Complainant also owns an important domain names portfolio, such as the domain name <arcelormittal.com> registered since January 27, 2006.

The disputed domain name <arceilormittal.com> was registered on September 20, 2021 and resolves to an inactive page. Besides, MX servers are configured.

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).

The Complainant claims rights in the ARCELORMITTAL mark through its trademark registration. By virtue of its trademark registrations, Complainant has proved that it has rights in the mark under paragraph 4(a) of the Policy. See Avast Software s. r. o. v Milen Radumilo, 102384, (CAC 2019-03-12).

The Complainant points out that the obvious misspelling of the Complainant's trademark ARCELORMITTAL®, i.e. the addition of the letter "l" (or "i"), is characteristic of a typosquatting practice intended to create confusing similarity between the Complainant's trademark and the disputed domain name. Moreover, the Complainant contends that the addition of the gTLD suffix ".COM" does not change the overall impression of the designation as being connected to the trademark ARCELORMITTAL®. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant and its trademark.

The Panel accepts that the additional character "l" clearly creates confusion among the disputed domain name and Complainant's trademark and the ".com" generic top-level domain ("gTLD") is irrelevant when establishing whether or not a mark is identical or confusingly similar, see SoftBank Group Corp. v. Mariel ATTONDE / Toile Informatique, 103655 (CAC 2021-04-11).

For the foregoing reasons, the Panel finds the Complainant has satisfied 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). More specifically, the Complainant must first make a prima facie case that the Respondent lacks rights and legitimate interests in the disputed domain name, and the burden of prove then shifts to the Respondent to show it does have rights or legitimate interests. See PepsiCo, Inc. v Smith power production, 102378, (CAC 2019-03-08) ("The Panel finds that the Complainant has made out a prima facie case that arises from the considerations above. All of these matters go to make out the prima facie case against the Respondent. As the Respondent has not filed a Response or attempted by any other means to rebut the prima facie case against it, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.").

The Complainant asserts that the Respondent is not known as the disputed domain name. The Complaint also contends that the Respondent is not related in any way with the Complainant. 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 Respondent to make any use of the Complainant's trademark ARCELORMITTAL®, or apply for registration of the disputed domain name by the Complainant.

In addition, the Complainant also claims that the disputed domain name is a typosquatted version of the trademark ARCELORMITTAL®. Typosquatting is the practice of registering a domain name in an attempt to take advantage of Internet users' typographical errors and can evidence that a respondent lacks rights and legitimate interests in the domain name.

Furthermore, the disputed domain name resolves to an inactive page. The Complainant's contends 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 Panel finds that the Complainant has established a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name. The burden of proof has been shifted to the Respondent to prove that it has right or legitimate interests to the disputed domain name. However, the Respondent has not submitted any response to rebut the assertion.

For the foregoing reasons, the Panel finds the Complainant has satisfied 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).

The Complainant contends that its trademark ARCELORMITTAL® is widely known and the notoriety of the trademark has been confirmed by the past panels, see CAC Case No. , ARCELORMITTAL v. China Capital, 101908 (CAC 2018-04-24) ("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.") and ARCELORMITTAL v. Robert Rudd, 101667 (CAC 2017-10-17) ("The Panel is convinced that the Trademark is highly distinctive and well-established."). Given the distinctiveness of the Complainant's trademark and reputation, it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's trademark, see ArcelorMittal SA v. Tina Campbell, DCO2018-0005, (WIPO 2018-03-28) ("The Panel finds that the trademark ARCELORMITTAL is so well-known internationally for metals and steel production that it is inconceivable that the Respondent might have registered a domain name similar to or incorporating the mark without knowing of it."). Moreover, the Complainant states the misspelling of the trademark ARCELORMITTAL® was intentionally designed to be confusingly similar with the Complainant's trademark. The Panel accepts that ARCELORMITTAL is a well-known mark and in the absence of Respondent's response, it is reasonably to believe that the Respondent had actual knowledge of the mark when he registered the disputed domain name.

Furthermore, the disputed domain name resolves to an inactive page and MX servers are configured. The Complainant contends that 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 the domain name by the Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant's rights under trademark law. The Panel accepts that passively holding a domain name that is identical or confusingly similar to a famous trademark without proper explanation constitutes bad faith under paragraph 4(b)(iv), see ARCELORMITTAL (SA) v. Milen Radumilo, 102379 (CAC 2019-04-18).

For the foregoing reasons, the Panel finds the Complainant has satisfied 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

Having established all three elements required under the UDRP Policy, the Panel concludes that relief shall be granted.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ARCEILORMITTAL.COM**: Transferred
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PANELLISTS

Name **Mr Paddy TAM**

DATE OF PANEL DECISION 2021-10-22

Publish the Decision