

Decision for dispute CAC-UDRP-104005

| | |
|-------------|------------------------|
| Case number | CAC-UDRP-104005 |
|-------------|------------------------|

| | |
|----------------|----------------------------|
| Time of filing | 2021-09-03 09:11:09 |
|----------------|----------------------------|

| | |
|--------------|-----------------------------|
| Domain names | mittalgroupindia.com |
|--------------|-----------------------------|

Case administrator

| | |
|--------------|--|
| Organization | Denisa Bilík (CAC) (Case admin) |
|--------------|--|

Complainant

| | |
|--------------|---------------------------|
| Organization | ARCELORMITTAL (SA) |
|--------------|---------------------------|

Complainant representative

| | |
|--------------|--------------------------|
| Organization | NAMESHIELD S.A.S. |
|--------------|--------------------------|

Respondent

| | |
|--------------|---------------------|
| Organization | Mittal Group |
|--------------|---------------------|

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 bases its Complaint on the trademarks MITTAL, international registration No. 1198046 of 5 December 2013, for goods and services in classes 6 and 40, and MITTAL STEEL, European registration No. 4233301, filed on 7 January 2005 and registered on 27 March 2006, with a priority date of 22 October 2004, for goods and services in classes 6 and 40.

FACTUAL BACKGROUND

The Complainant is the largest steel producing company in North and South America and Europe, and manufactures steel in 17 countries. With approximately 168,000 employees, and customers in 160 countries, the Complainant 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.

The Complainant also owns a large domain name portfolio, including the trademark MITTAL, such as <mittalsteel.com>, registered in 2003, and <mittal-steel.com> registered in 2009.

The disputed domain name was registered on 28 August 2021 under the name Mittal Group. At the time of the filing of the

Complaint, the disputed domain name resolved to a WordPress page template, displaying several references to the Complainant, including a photo of Mr. Ayay Mittal, founder and director of the Complainant, of two other unnamed individuals qualified as Managing Directors. The website template also contained the trademark MITTAL GROUP OF INDUSTRIES, and a banner displaying the wording: "Welcome to Mittal Group of Industries", followed by a short description of the Mittal group's manufacturing unit in India and further information on the Mittal group companies and its directors (the three individuals mentioned above). After receiving from the CAC the contact information of the Respondent, the Complainant sent a warning letter, asking for the immediate transfer of the disputed domain name. Simultaneously, the Complainant contacted the CAC asking for a temporary suspension of the UDRP proceeding. However, as the Respondent failed to proceed with the transfer, although it discontinued the use of the disputed domain name, the Complainant contacted the CAC asking for the continuation of the proceeding.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

The Complainant's contentions are the following.

The disputed domain name is confusingly similar to its MITTAL mark, as it includes it in its entirety and the additional words "group" and "India" are not sufficient to exclude a finding of confusing similarity.

The Respondent does not have rights or legitimate interests in the disputed domain name as the Complainant has no business or other relation with the Respondent, and never licensed its MITTAL trademark to the Respondent, nor authorised the Respondent to make use of its trademark, or register a domain name containing this mark. Moreover, the disputed domain name was used to access a WordPress page template, showing a photo of the Complainant's CEO, and the wording "Lorem ipsum dolor sit amet, consectetur adipiscing elit, sed do eiusmod tempor incididunt ut labore et dolore magna aliqua" that appears to be a placeholder text. The Complainant therefore concludes that the Respondent is not providing services through the disputed domain name, or that if it is, the use of the disputed domain name is not a bona fide use.

The Complainant contends that the disputed domain name was registered and has been used in bad faith. The Complainant's trademarks are well-known, and the Respondent uses a photo of Mr. Aditya Mittal, CEO of the Complaint. Thus, given the distinctiveness of the Complainant's trademark and reputation, it is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademark.

In relation to the use of the disputed domain name in bad faith, the Complainant underlines that the disputed domain name is being used to access a web page template partially filled with information on the Complainant, and displaying the photo of the Complainant's CEO along with a placeholder text. Accordingly, the Complainant asserts that the Respondent has intentionally attempted to attract for commercial gain Internet users to its website by creating likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the web site. This also could disrupt the business of the Complainant and may constitute bad faith under paragraph 4(b)(iii) of the Policy.

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. Confusing similarity of the disputed domain name to the Complainant's trademark

The Panel agrees with the Complainant that the disputed domain name is confusingly similar to the Complainant's trademark MITTAL as it includes it entirely and the two additional words part of the disputed domain name, "group" and "India" are merely descriptive of the way the Complainant is structured (a group of companies) and of one of the territories where the Complainant operates, namely India. Hence the addition of these two words to the Complainant's MITTAL trademark cannot exclude a finding of confusing similarity of the disputed domain name with the Complainant's mark.

In consideration of the above, the Panel is satisfied that the first condition under the Policy is met.

2. No rights or legitimate Interests

As also confirmed in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), a 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, a complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the UDRP. The Complainant has stated that it does not undertake any kind of relationship with the Respondent and that it never licensed its MITTAL trademark to the Respondent, nor authorised the Respondent to include its trademark in a domain name and corresponding website.

Furthermore, the disputed domain name leads to a template website containing a placeholder text and several references to the Complainant, its management, and activity, including photos of the founder and the actual CEO. All this information included in a website under a confusingly similar domain name is likely to seriously mislead the Internet user who is looking for the Complainant. Indeed, the Respondent is falsely impersonating the Complainant through a domain name and a connected website that reproduce the Complainant's MITTAL trademark and that include information of its Indian steel manufacturing plant, and pictures of the Complainant's President and CEO. Such use cannot amount to a bona fide offering of goods and services, nor to a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Respondent registered the disputed domain name under the registrant's name: Mittal Group and provided as email address the following: "mittalgrup@yahoo.com". However, the Panel finds that this circumstance per se, does not entail that the Respondent has been commonly known by the disputed domain name. This circumstance should be supported by further evidence, which the Respondent has failed to provide and that is not present in the file. Considering that the Respondent was using the disputed domain name in connection with a WordPress page template providing several information on the Complainant, the name Mittal Group as the registrant of the disputed domain name is clearly a false indication and a further attempt to mislead consumers through impersonation of the Complainant. This is also confirmed by the fact that the email address contains a typo, as "grup" is a misspelling of "group".

In light of the above, the Panel is satisfied that also the second condition of the Policy is met.

3. Bad faith

In relation to bad faith, the Panel agrees with the Complainant that the Respondent was well aware of the Complainant's mark and activity at the time of the registration of the disputed domain name. Indeed, the Complainant's trademark is highly distinctive and enjoys reputation, as also confirmed in several other UDRP decisions. Furthermore, the contents of the WordPress page template unequivocally show the Respondent's knowledge of the Complainant. In addition, the Respondent indicated "Mittal Group" as the registrant's name of the disputed domain name. Hence, the Respondent has deliberately registered a domain name corresponding to a well-known third party's trademark knowing that it was not entitled to it.

With respect to use in bad faith, the Panel finds that the disputed domain name was used to access a WordPress page template containing information on the Complainant, including pictures of its management. Furthermore, the Respondent provided false contact information at the time of the registration of the disputed domain name and configured the email servers to operate with the domain name. Hence, the Respondent is impersonating the Complainant in all possible manners, in order to mislead consumers, which creates a risk that the Respondent may be engaged in a phishing scheme (see among others, WIPO Case D2019-2550, Association des Centres Distributeurs E. Leclerc - A.C.D. Lec v. Registration Private, Domains By Proxy, LLC / Name Redacted). The Panel does not know the purpose that the Respondent is trying to achieve through this behaviour; however, whatever the reason for this behaviour, it is certainly not legitimate and is in bad faith. After receiving the contact details for the disputed domain name, following the usual disclosure of data after filing the Complaint, the Complainant sent an email to the Respondent, informing of its data and requesting the voluntary transfer of the disputed domain name. However, the Respondent did not provide an answer to the Complainant's letter, but suspended the use of the disputed domain name. This lack of collaboration and sudden change of the webpage associated to the disputed domain name are a further indication of the Respondent's bad faith.

The fact that the disputed domain name is currently not active does not change the fact that the Respondent is acting in bad faith. Indeed, the Respondent could at any moment resume its previous use and continue to impersonate the Complainant as done before. Furthermore, the email servers still are configured to operate as the domain name, and passive holding cannot prevent a finding of bad faith when all the general circumstances of the case show bad faith of the Respondent as in the case at issue.

For all reasons mentioned above, the Panel finds that the disputed domain name has been registered and is being used in bad faith. Hence, also the third and last condition under the Policy is met.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **MITTALGROUPINDIA.COM**: Transferred

PANELLISTS

| | |
|------|--------------------|
| Name | Angelica Lodigiani |
|------|--------------------|

DATE OF PANEL DECISION 2021-10-24

Publish the Decision