

## Decision for dispute CAC-UDRP-104087

Case number CAC-UDRP-104087

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Domain names arcalormital.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 S.A.S.

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### Respondent

Organization BLUE HUNDRED CO.,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.

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#### IDENTIFICATION OF RIGHTS

The Complainant is the owner of the international trademark n° 947686 ARCELORMITTAL® registered on August 3, 2007.

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#### FACTUAL BACKGROUND

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

The Complainant is the largest steel producing company in the world and 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 disputed domain name <arcalormital.com> was registered on October 17, 2021 and redirects to a page with information pertaining to the open-source computing platform "CentOS Linux".

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#### PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

PARTIES' CONTENTIONS:

COMPLAINANT:

RESPONDENT:

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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 disputed domain name <arcalormital.com> is confusingly similar to its trademark ARCELORMITTAL® and its domain name associated, as it includes the Complainant's trademark in its entirety.

The obvious misspelling of the Complainant's trademark ARCELORMITTAL®, i.e. the substitution of the letter "E" by the letter "A" and the deletion of the letter "T", is characteristic of a typosquatting practice intended to create confusing similarity between the Complainant's trademark and the disputed domain name. Previous panels have found that the slight spelling variations does not prevent a domain name from being confusing similar to the Complainant's trademark. See WIPO Case No. D2020-3457, ArcelorMittal (Société Anonyme) v. Name Redacted <arcelormlital.com> ("As the disputed domain name differs from the Complainant's trademark by just two letters, it must be considered a prototypical example of typosquatting – which intentionally takes advantage of Internet users that inadvertently type an incorrect address (often a misspelling of the complainant's trademark) when seeking to access the trademark owner's website. WIPO Overview 3.0 at section 1.9 states that "[a] domain name which consists of a common, obvious, or misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element.").

Furthermore, the addition of the gTLD ".COM" does not change the overall impression of the designation as being connected to the Complainant's trademark. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and its domain names associated.

Indeed, as reminded in the WIPO Overview 3.0 §1.11.1, "the applicable Top-Level Domain ("TDL") in a domain name (e.g., ".com", ".club", ".nyc") is viewed as a standard registration requirement and as such is disregarded under the first element confusion similarity test".

Consequently, the disputed domain name <arcalormital.com> is confusingly similar to Complainant's trademark ARCELORMITTAL®.

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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).

According to WIPO Case No. D2003-0455 Croatia Airlines d. d. v. Modern Empire Internet Ltd., 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 Respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a) (ii) of the UDRP.

The Respondent is not known as the disputed domain name, but as "BLUE HUNDRED CO.,LTD". Past panels have held that a Respondent was not commonly known by a disputed domain name if the Whois information was not similar to the disputed domain name. Thus, the Respondent is not known as the disputed domain name.

Please see for instance Forum 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).”).

The Respondent has no rights or legitimate interests in respect of the domain name <arcalormital.com> and he 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.

Besides, 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. Please see Forum Case No. 1597465, The Hackett Group, Inc. v. Brian HERN / 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).”).

Finally, the disputed domain name redirects to a page with information pertaining to the open-source computing platform “CentOS Linux”. The Respondent used the dispute domain name in a way that fails to confer rights and legitimate interests, as it is used to promote unrelated services.

Please see Forum Case No. FA1808541, Baylor University v. Pan Pan Chen / Chen Pan Pan (“Complainant argues that Respondent uses the disputed domain name to offer services completely unrelated to those offered by Complainant. Using a confusingly similar domain to promote unrelated services can evince a lack of a bona fide offering of goods or services or legitimate non-commercial or fair use.”).

Thus, in accordance with the foregoing, the Respondent has no right or legitimate interest in respect of the disputed domain name <arcalormital.com>.

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#### 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 disputed domain name <arcalormital.com> is confusingly similar to its distinctive trademark ARCELORMITTAL®.

The Complainant’s trademark ARCELORMITTAL® is widely known. 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.”)

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.

Please see WIPO Case No. DCO2018-0005, ArcelorMittal SA v. Tina Campbell (“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 misspelling of the trademark ARCELORMITTAL® was intentionally designed to be confusingly similar with the Complainant’s trademark. Previous UDRP Panels have seen such actions as evidence of bad faith. Please see NAF 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).").

Besides, the disputed domain name redirects to a page with information pertaining to the open-source computing platform "CentOS Linux". The Respondent attempts to attract internet users by creating a likelihood of confusion with the Complainant's trademark. The Respondent is obtaining commercial gain from its use of the domain name and the resolving website. Past Panels have held that this is an evidence of bad faith registration and use.

Please see Forum Case No. FA893000, The Vanderbilt University v. U Incorporated ("By diverting Internet users to its own website and promoting books unrelated to Complainant's university under the VANDERBILT mark, Respondent is taking advantage of the confusing similarity between the <vanderbilt.mobi> domain name and Complainant's VANDERBILT in order to profit from the goodwill associated with the mark, and that such registration and use constitutes bad faith under Policy paragraph 4(b)(iv).").

Please see also WIPO Case No. D2021-0653, FXCM Global Services, LLC v. WhoisGuard Protected, WhoisGuard, Inc. / Soy Cao ("The bad faith finding also results from the alternate use of the disputed domain name without "www", which leads to a page advertising the open-source computing platform "CentOS Linux", a service completely unrelated to the Complainant. Such use disrupts the Complainant's business.").

On those facts, the Respondent has registered the disputed domain name <arcalormital.com> and is using it in bad faith.

#### 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 disputed domain name <arcalormital.com> is confusingly similar to its distinctive trademark ARCELORMITTAL®. 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.

Moreover, the misspelling of the trademark ARCELORMITTAL® was intentionally designed to be confusingly similar with the Complainant's trademark.

Besides, the disputed domain name redirects to a page with information pertaining to the open-source computing platform "CentOS Linux"

#### FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ARCALORMITAL.COM**: Transferred

#### PANELLISTS

Name	Thomas Hoeren
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DATE OF PANEL DECISION 2021-11-11

Publish the Decision