

Decision for dispute CAC-UDRP-104090

Case number **CAC-UDRP-104090**

Time of filing **2021-10-25 09:41:19**

Domain names **arcalormittalsa.com**

Case administrator

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

Complainant

Organization **ARCELORMITTAL (SA)**

Complainant representative

Organization **NAMESHIELD S.A.S.**

Respondent

Organization **Bestinrnarknet**

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 ARCELORMITTAL S.A. formed in 2006, is a multinational steel manufacturing corporation headquartered in Luxembourg City. It is the world's leading steel and mining company. It is specialized in steel producing in a worldwide scale.

The Complainant is the owner of the international trademark No. 947686 ARCELORMITTAL registered on August 3, 2007.

The disputed domain name <arcalormittalsa.com> was registered on October 18, 2021 and currently resolves to an inactive website.

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 Complainant has a solid presence in North America, South America and Europe, it has Customers in 160 countries, provides work to 168,000 people at a worldwide scale, it holds more than 200 trademarked products, counts with more than 600 patent families and has more than 100 R&D Programs in progress.

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

According to the evidence, the disputed domain name <arcalormittalsa.com> was registered on October 18, 2021 and resolved to the Complainant ARCELORMITTAL SOUTH AFRICA's official website <https://arcelormittalsa.com/>.

By the time of this Decision, the disputed domain name and the website are inactive.

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

In accordance with Paragraph 4(a) of the Policy, the onus is on the Complainant to prove:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

Accordingly, this Panel Analyze each UDRP Element:

1. Identical or Confusingly Similar:

The disputed domain name <arcalormittalsa.com> is confusingly similar to Complainant's ARCELORMITTAL trademark. This is because it contains the name of the trademark, altered for one single character which is the letter "A" instead of "E" plus the

letters “SA” at the end of the disputed domain name, which undeniably constitute an act of typosquatting and refers to the legal type in French of Complainant’s company’s name ARCELORMITTAL S.A., meaning “SA” for “Société Anonyme” and/or to the initials of the continent “South Africa” as stated by the Complainant, respectively (see Heaven Hill Distilleries, Inc. v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico, WIPO Case No. 2021-3076).

According to point 1.9 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“WIPO Jurisprudential Overview 3.0”):

“A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element.

This stems from the fact that the domain name contains sufficiently recognizable aspects of the relevant mark. Under the second and third elements, panels will normally find that employing a misspelling in this way signals an intention on the part of the respondent (typically corroborated by infringing website content) to confuse users seeking or expecting the complainant.

Examples of such typos include (i) adjacent keyboard letters, (ii) substitution of similar-appearing characters (e.g., upper vs lower-case letters or numbers used to look like letters), (iii) the use of different letters that appear similar in different fonts, (iv) the use of non-Latin internationalized or accented characters, (v) the inversion of letters and numbers, or (vi) the addition or interspersing of other terms or numbers.”

In relation to the gTLD “.com”, it is well established that such element may typically be disregarded when assessing whether a domain name is identical or confusingly similar to a trademark (see ARCELORMITTAL (SA) v. BLUE HUNDRED CO., LTD, CAC Case No. 104087).

2. Rights or Legitimate Interests:

Through the submitted evidence, and based on Respondent’s Default, this Panel is convinced that the Complainant has established its prima facie case in relation to the Second Element of the Policy, due to:

- (1) the Respondent chose such a well-known trademark as ACELORMITTAL, intentionally misspelling it and even added the letters “SA”, putting on risk Complainant’s trademark good-will and ultimately creating confusion in the Internet Consumer;
- (2) the Respondent registered the disputed domain name on October 18, 2021, very well after the Complainant’s acquired its trademark rights over ACELORMITTAL on August 3, 2007;
- (3) the Respondent is not associated or affiliated with the Complainant;
- (4) the Complainant has not granted any rights to the Respondent to use the ACELORMITTAL trademark, whether a license to offer any product or service, or any rights to apply for registration of the disputed domain name by the Complainant;
- (5) there is no evidence that the Respondent has become commonly known by the term “ACELORMITTAL”;
- (6) According to evidence submitted before the Panel, the disputed domain name redirects to the ARCELORMITTAL SOUTH AFRICA’s official website <https://arcelormittalsa.com/> being an unrebuttably indication of lack of rights or legitimate interests (and bad faith) (see AdvanSix Resins & Chemicals, LLC v. John Lubega, Plush Electronics, WIPO Case No. 2020-0746); and
- (7) 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.

3. Registered and Used in Bad Faith:

Paragraph 4(b) of the Policy describes several non-exclusive and merely illustrative circumstances to demonstrate a respondent's bad faith use and registration.

In the present Case scenario, this Panel considers that the Respondent has incurred in:

(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product or service on its website or location.

Previous panels have confirmed the notoriety and recognition of the trademark ARCELORMITTAL in the following cases:

- ARCELORMITTAL v. China Capital, CAC Case No. 101908 ("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.");

- ARCELORMITTAL v. Robert Rudd, CAC Case No. 101667 ("The Panel is convinced that the Trademark is highly distinctive and well-established.");

- ARCELORMITTAL (SA) v. BLUE HUNDRED CO., LTD, CAC Case No. 104087 ("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.");

- ArcelorMittal SA v. Tina Campbell, WIPO Case No. DCO2018-0005 ("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.").

According to point 3.1.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Jurisprudential Overview 3.0"):

"Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith.

Panels have moreover found the following types of evidence to support a finding that a respondent has registered a domain name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the complainant's mark: (i) actual confusion, (ii) seeking to cause confusion (including by technical means beyond the domain name itself) for the respondent's commercial benefit, even if unsuccessful, (iii) the lack of a respondent's own rights to or legitimate interests in a domain name, (iv) redirecting the domain name to a different respondent-owned website, even where such website contains a disclaimer, (v) redirecting the domain name to the complainant's (or a competitor's) website, and (vi) absence of any conceivable good faith use.(...)".

Therefore, this Panel is ready to conclude that the Respondent has sufficient knowledge of Complainant's trademark at the moment of the selection, detailed composition and registration of the disputed domain name (see AdvanSix Resins & Chemicals, LLC v. John Lubega, Plush Electronics, WIPO Case No. D2020-0746).

Also, this Panel is ready to conclude that the use of the disputed of the domain name was – and is – in bad faith, due to its redirection to ARCELORMITTAL SOUTH AFRICA's official website <https://arcelormittalsa.com/>, even when such website currently is inactive, fact that also demonstrates the Respondent bad faith's awareness (see point 3.3 of the WIPO

Jurisprudential Overview 3.0).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ARCALORMITTALSA.COM**: Transferred

PANELLISTS

Name	Ms. MARÍA ALEJANDRA LÓPEZ GARCÍA
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DATE OF PANEL DECISION 2021-11-19

Publish the Decision
