

## Decision for dispute CAC-UDRP-104120

Case number CAC-UDRP-104120

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Time of filing 2021-11-02 08:44:55

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Domain names mittalsteelint.com

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### Case administrator

Organization Iveta Špiclová (Czech Arbitration Court) (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 otskw

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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 several trademark containing the term "MITTAL", such as the international trademark n° 1198046 MITTAL registered on December 5, 2013 and the European trademark n° 4233301 MITTAL STEEL registered since January 7, 2005.

The Complainant also owns numerous domain names portfolio containing the same wording MITTAL, such as the domain name <mittalsteel.com> registered since January 3, 2003 and <mittal-steel.com> registered since May 18, 2009.

The disputed domain name <mittalsteelint.com> was registered on October 23, 2019 and resolves to a website under construction.

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#### FACTUAL BACKGROUND

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

The Complainant is a company specialized in steel producing in the world. 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 tons crude steel made in 2020. It holds sizeable captive supplies of raw materials and operates extensive distribution networks.

The disputed domain name is confusingly similar to the Complainant's trademark MITTAL and MITTAL STEEL, as it includes the trademarks in their entirety. The addition of the term "INT" (for "International") is not sufficient to escape the finding that the disputed domain name is confusingly similar to the trademark. It 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 and its trademark. It is well-established that "a domain name that wholly incorporates a Complainant's registered trademark may be sufficient to establish confusing similarity for purposes of the UDRP".

Furthermore, the Complainant contends that 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.

The Respondent does not have any rights or legitimate interest in the disputed domain name. 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 Policy.

The Complainant asserts that the Respondent is not identified in the Whois database as the disputed domain name. 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.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name 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, or apply for registration of the disputed domain name by the Complainant.

Furthermore, the disputed domain name resolves to a website under construction. Therefore, the Complainant contends that Respondent did not make any use of disputed domain name since its registration, and it confirms that Respondent has no demonstrable plan to use the disputed domain name. It demonstrates a lack of legitimate interests in respect of the disputed domain name.

The disputed domain name has been registered and is being used in bad faith. The disputed domain name is confusingly similar to the Complainant's distinctive trademarks MITTAL and MITTAL STEEL. The Complainant's trademarks are widely known. Past panels have confirmed the notoriety of the trademarks. 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.

Furthermore, the disputed domain name resolves to a website under construction. Besides, the disputed domain name has been set up with MX records.

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 disputed domain name by the Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, an infringement of the Complainant's rights under trademark law, or an attempt to attract, for commercial gain, Internet users to his own website, by creating a likelihood of confusion with Complainant's trademark as to the source, sponsorship, affiliation or endorsement of Respondent's website. As prior WIPO UDRP panels have held, the incorporation of a famous mark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use.

Finally, although the disputed domain name appears to be unused, it has been set up with MX records which suggests that it may be actively used for e-mail purposes.

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#### PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

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#### RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is 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).

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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).

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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).

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#### 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.

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#### PRINCIPAL REASONS FOR THE DECISION

For the Complainant to succeed it must prove, within the meaning of paragraph 4(a) of the Policy, that:

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

#### I. Identical or Confusingly Similar

The Complainant has established the fact that it has valid rights for the international trademark n° 1198046 MITTAL registered on December 5, 2013 and the European trademark n° 4233301 MITTAL STEEL registered since January 7, 2005, and that it owns domain names including the same distinctive wording MITTAL and MITTAL STEEL. The disputed domain name has been registered on October 23, 2019, i.e. almost 15 years after the MITTAL STEEL trademark registration, and wholly incorporates the Complainant's trademark MITAL STEEL and is therefore confusingly similar to it.

The term "INT" seems to be the abbreviation of word "INTERNATIONAL" and doesn't distinguish the disputed domain name from the Complainant's trademark. The term "MITTALSTEEL" used in the disputed domain name is placed in the beginning of the domain name and is the dominant element of the disputed domain name. The addition of the generic top level domain ".COM" does not change the overall impression of the designation as being connected to Complainant's trademark.

The Panel therefore considers the disputed domain name to be confusingly similar to the Complainant's trademark MITTAL STEEL which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

## II. Rights or Legitimate Interests

The Complainant has established a prima facie case (not challenged by the Respondent who did not file any response to the complaint) that the Respondent has no rights or legitimate interests in the disputed domain name, since the Respondent is not related in any way with the Complainant. The disputed domain name resolves to the “under construction” web page only and, therefore, does not constitute a bona fide offering of goods and services or a legitimate noncommercial fair use. The Respondent has no rights or legitimate interests in the disputed domain name, since there is no indication that the Respondent is commonly known by the term “MITTAL” or “MITTAL STEEL” or its variations or that the Respondent is using the disputed domain name in connection with a bona fide offering of goods or services.

The Panel therefore considers that the Respondent has no rights or legitimate interests in respect of the disputed domain name within the meaning of paragraph 4(a)(ii) of the Policy.

## III. Registered and Used in Bad Faith

Given the distinctiveness of the Complainant's trademark and reputation (as confirmed in several UDRP proceedings in the past – CAC Case No. 101908, ARCELORMITTAL v. China Capital; CAC Case No. 101667, ARCELORMITTAL v. Robert Rudd) it is evident that the Respondent had the Complainant and its trademark in mind when registering the disputed domain name. Furthermore, the website in connection with the disputed domain name is not used since its registration. The incorporation of a famous trademark into a domain name, coupled with an inactive “under construction” website, may be evidence of bad faith registration and use.

The Panel therefore considers that 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 Panel finally considers that the Complainant has shown that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights, the Respondent has no rights or legitimate interests in respect of the disputed domain name and the disputed domain name has been registered and is being used in bad faith. The Complainant has thus established all three elements of paragraph 4(a) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. MITTALSTEELINT.COM: Transferred

## PANELLISTS

Name	JUDr. Petr Hostaš
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DATE OF PANEL DECISION 2021-12-12

Publish the Decision