

Decision for dispute CAC-UDRP-104286

Case number	CAC-UDRP-104286
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Time of filing	2022-01-25 08:54:19
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Domain names	rcelormittal.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	AMANDA HOBUS
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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 proprietor of the international trademark No. 947686 "ARCELORMITTAL" registered 3 August 2007 in classes 6, 7, 9, 12, 19, 21, 39, 40, 41 and 42 designating numerous countries around the world.

Also, the Complainant has registered a significant domain portfolio, including <arcelormittal.com> which was registered on 27 January 2006.

FACTUAL BACKGROUND

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

The Complainant is a company specialized in steel producing.

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 Complainants recalls previous UDRP cases:

- CAC Case No. 102360, ARCELORMITTAL (SA) v. Milton Liquors ILC <arcelornmittall.com>;
- CAC Case No. 102349, ARCELORMITTAL S.A. v. Arcelormittal <arcelomittal.org>;
- CAC Case No. 102346, ARCELORMITTAL (SA) v. Sani Cermaic <acelormitall.com>.
- 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).");
- FORUM Case No. FA 699652, The Braun Corporation v. Wayne Loney;
- FORUM Case No. 1765498, Spotify AB v. The LINE The Line / The Line ("Complainant contends the <spotify.com> domain name differs from the SPOTIFY mark only by the omission of the letter "i" in the mark, and is thus a classic case of typosquatting. [...] The Panel finds that Respondent's registration of the domain name is typosquatting and indicates it lacks rights and legitimate interests in the domain name per Policy paragraph 4(a)(ii).");
- FORUM Case No. 1597465, The Hackett Group, Inc. v. Brian Herns / 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).").

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.").

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.").

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 disputed domain name differs only from the Complainant's domain name and trademark in that it omits the first letter "A" in

ARCELORMITTAL. However this still leaves the visual impression near to identical and the auditive impression identical when pronounced in English.

This is, according to this Panel, not sufficient to distinguish the disputed domain name from the Complainant's rights, as the overall impression, including the visual, auditive and conceptual, of both the Complainant's rights and the disputed domain name remain quasi-identical and confusingly similar.

Consequently, the Panel – like previous panels – views this to be a clear case of typosquatting and refers in this case to:

- CAC Case No. 102360, ARCELORMITTAL (SA) v. Milton Liquors ILC <arcelornmittall.com>;
- CAC Case No. 102349, ARCELORMITTAL S.A. v. Arcelormittal <arcelomittal.org>;
- CAC Case No. 102346, ARCELORMITTAL (SA) v. Sani Cermaic <acelormitall.com>.

As well-established in case-law, the addition of the gTLD “.COM” does not change the overall impression and this Panel finds that the disputed domain name is confusingly similar to the Complainant's rights.

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).

The Complainant contends that the Respondent is not affiliated with him nor authorized by him in any way to use Complainant's trademarks in a domain name or on a website. The Complainant does not carry out any activity for, nor has any business with the Respondent.

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).

Given the circumstances of the case, including the provided information of the use and reputation of the Complainant's trademark ARCELORMITTAL and the distinctive nature of this mark, it is inconceivable to the Panel in the current circumstances that the Respondent registered the disputed domain name without prior knowledge of the Complainant and the Complainant's mark.

The Panel therefore finds that the disputed domain name was registered in bad faith.

The disputed domain name does not currently resolve to an active website. The disputed domain name however enables the Respondent to send emails using an e-mail address that contains the disputed domain name.

Though no concrete examples of such use have been presented to this Panel, it seems inconceivable that the Respondent will be able to make any good faith use of the disputed domain name as part of an e-mail address. The Panel notes in this connection that passive holding of a domain name does not prevent a finding of bad faith use under 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. The three essential issues under the paragraph 4(a) of the Policy are whether:

i. the disputed 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 with respect to the disputed domain name; and

iii. the disputed domain name has been registered and is being used in bad faith.

2. The Panel reviewed carefully all documents provided by the Complainant. The Respondent did not provide the Panel with any documents or statements. The Panel also visited all available websites and public information concerning the disputed domain name, namely the WHOIS databases.

3. The UDRP Rules clearly say in its Article 3 that any person or entity may initiate an administrative proceeding by submitting a complaint in accordance with the Policy and these Rules.

4. The Panel therefore came to the following conclusions:

a) The Complainant states and proves that the disputed domain name is confusingly similar to its trademarks and its domain names.

The disputed domain name is therefore deemed confusingly similar.

b) The Respondent is not generally known by the disputed domain name and have not acquired any trademark or service mark rights in the name or mark, nor is there any authorization for the Respondent by the Complainant to use or register the disputed domain name.

The Panel therefore finds that the Respondent does not have rights or legitimate interest with respect to the disputed domain name.

c) It is clear that the Complainant's trademarks and website(s) were used by the Complainant long time before the disputed domain name was registered. There is no present use of the disputed domain name but the disputed domain name enables the Respondent to send e-mails using an e-mail address that contains the disputed domain name. Though no concrete examples of such use have been presented to this Panel, it seems inconceivable that the Respondent will be able to make any good faith use of the disputed domain name as part of an e-mail address. It is concluded that the Respondent makes bad faith use of the disputed domain name.

The Panel therefore finds that the disputed domain name has been registered and is being used in bad faith.

For the reasons stated above, it is the decision of this Panel that the Complainant has satisfied 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. RCELORMITTAL.COM: Transferred

PANELLISTS

Name	Lars Karnoe
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DATE OF PANEL DECISION	2022-02-23
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Publish the Decision