

## Decision for dispute CAC-UDRP-100438

Case number **CAC-UDRP-100438**

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Time of filing **2012-08-23 15:11:31**

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Domain names **arselormittal.com**

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### Case administrator

Name **Tereza Bartošková (Case admin)**

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### Complainant

Organization **ArcelorMittal SA**

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### Respondent

Organization **Above.com Domain Privacy**

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#### OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other pending or decided legal proceedings which relate to the disputed domain name

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#### IDENTIFICATION OF RIGHTS

##### TRADEMARKS:

- International Trademark no. 947686 ArcelorMittal registered on August 3, 2007;
- CTM Trademark no. 4592382 MITTAL filed on August 16, 2005 and registered on December 5, 2006;
- CTM Trademark no. 4233301 MITTAL STEEL filed on January 7, 2005 and registered on March 27, 2006;
- Benelux Trademark no. 824918 ArcelorMittal filed on May 25, 2007 and registered on June 18, 2007.

#### DOMAIN NAMES

- <arselormittal.com> registered on January 27, 2006
  - <arselormittal.us> registered on December 22, 2006
  - <arselormittal.biz> registered on June 25, 2006
  - <arselormittal.org> registered on September 18, 2011
  - <arselormittal.info> registered on June 25, 2006
  - <arselormittal.net> registered on June 25, 2006
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#### FACTUAL BACKGROUND

The Complainant contends that <arselormittal.com> is confusingly similar to its previous and well-known trademark ArcelorMittal in consideration of the fact that the letter C included in the Complainant's mark is simply replaced by the letter S included in the disputed domain name.

Respondent has registered the disputed domain name on March 14, 2012; the corresponding website consists of a simple homepage with different links to websites of third parties offering different kind of products/services.

According to the Complainant's point of view the behaviour of Respondent represents a typical case of typosquatting.

Complainant contends that typosquatting is profitable because a website with a domain name consisting of a common misspelling of a famous trademark generates Internet traffic and, therefore, possible advertising revenue as established in the following cases:

WIPO N° D2012-0744 Riot Games, Inc. v. Maik Baumgartner

WIPO N° D2011-0060 Allstate Insurance Company v. Anunet Pvt Ltd.

WIPO N° D2011-0830 Geoffrey, LLC v. Toys R Russ and Days of '49 < name <

Furthermore, Complainant has received numerous decisions in its favour regarding disputes in relation with its trademark:

- WIPO case No. D2011-1154 < arcelormittalspa.com >

- WIPO case No. D2010-2049, < mittal-steel.com >

- WIPO case No. D2010-0899, < arcelorcement.com >, < arcelorchemicals.com >, < arcelorchemicals.net >, < arcelorlaboratories.com >, < arcelorlabs.com >.

- CAC case No. 100361, < arcelormittal.pro >

- CAC case No. 100359, < accelormittal.com > < arcelormitta.com >

- CAC case No. 100358, < arcelormittal.biz >, < arcelormittal.info >, < arcelormittal.org >

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#### PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

PARTIES' CONTENTIONS:

COMPLAINANT:

See above

RESPONDENT:

No response has been filed

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#### RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the 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).

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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 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 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

1) The Complainant's rights on ARCELORMITTAL were acquired well before the registration made by Respondent for the domain name < arselormittal.com >. The Panel finds that the letter C included in the Complainant's mark it is simply replaced by the letter S included in the disputed domain name.

This conduct, known as typosquatting, tries to take advantages from errors by Internet users when typing domain names into

their browser location bar. As previous Panels have held, a finding of typosquatting renders a domain name confusingly similar to a previous trademark especially when such a previous trademark is well-known as in the case at hand.

2) Regarding Respondent's lack of right or legitimate interests, the Panel finds that the name of Respondent Above.com Domain Privacy does not indicate that Respondent is known by consumers with ARSELORMITTAL or similar commercial signs. In these circumstances, Respondent would have been obliged to demonstrate an existing right, or interest, on said sign. The above demonstration was never submitted since no response has been filed in the present case.

3) It is well-settled that the practice of typosquatting is by itself evidence of bad faith registration (Long's Drug Stores Cal., Inc. v. Shep Dog, WIPO Case No. D2004-1069; Lexar Media, Inc. v. Huang, WIPO Case No. D2004-1039; Wal-Mart Stores, Inc. v. Longo, WIPO Case No. D2004-0816). In the case at hand it is clear that the only purpose of the Respondent in registering and using the disputed domain name is to "catch" internet users, who mistakenly type <www.arselormittal.com> instead of <www.arcelormittal>, at the Respondent's site. This is obviously profitable for Respondent since it may generate internet traffic and possible advertising revenue taking advantage from the good reputation associated to a third party's well-known trademark. This clearly indicates bad faith according to the Panel point of view.

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FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ARSELORMITTAL.COM**: Transferred

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## PANELLISTS

Name	<b>Avv. Guido Maffei</b>
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DATE OF PANEL DECISION 2012-09-28

Publish the Decision

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