Decision for dispute CAC-UDRP-100499

Case number	CAC-UDRP-100499
Time of filing	2012-08-30 13:00:26
Domain names	mailfrarcelor.net

Case administrator

Name	Tereza Bartošková (Case admin)

Complainant

Organization	ArcelorMittal SA

Respondent

Organization	ICS INC.

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 owns a number of rights, including:
- International trademark ARCELOR, registered on 25 february 2002 under number 778212;
- International trademark ARCELORMITTAL, registered on 3 August 2007 under number 947686;
- United States trademark ARCELORMITTAL, registered on 23 June 2009 under number 3643643;

FACTUAL BACKGROUND

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

1. 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 operations in more than 60 countries. It holds sizeable captive supplies of raw materials and operates extensive distribution networks. In 2011 the CNN Fortune Global 500 World's Biggest Companies ranked the Complainant on the 74th position in the world.

2. The Complainant owns several word and stylized trademarks for ARCELOR and ARCELORMITTAL.

3. The Complainant owns and communicates on the Internet through various websites worldwide. It principal website is "www.arcelormittal.com", but the Complainant has also registered other domain names similar to the trademark "ARCELORMITTAL".

4. The Complainant obtained numerous favorable decisions regarding domain name disputes in relation with its trademark, such as:
- 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>

5. The Respondent has no rights or legitimate interests in respect of the domain name and it 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 licence nor authorization has been granted to the Respondent to make any use, or apply for registration of the disputed domain name by the Complainant. The website associated with the Domain Name displays commercial links in relation with the Complainant's activities and its competitors.

6. The Respondent intends to take advantage of misspellings of Complainant's domain name through typo squatting.

7. The Respondent has not provided response to a cease and desist letter.

8. The disputed domain name is on sale through the website in relation with the disputed domain name. The Complainant contends that the Respondent registered the domain name only in purpose (i) to get a profit of the Complainant's notoriety (commercial links) and (ii) to disrupt the Complainant’s business and to derive an advantage from user confusion.

9. On 3 September, the registrar "Tucows" confirmed that the Respondent is " ICS INC.". This Respondent is known on many UDRP in which the panel ordered the transfer or the cancellation of the disputed domain names, including
- WIPO case N° D2012-1314 Sanofi v. Contact Privacy Inc. Customer 0129138820 / ICS INC;
- WIPO case N° D2012-1293 Sanofi v. PrivacyProtect.org / ICS INC;
- WIPO case N° D2012-1003 AlliedBarton Security Services LLC v. Registrant: ICS INC;
- WIPO case N° D2012-0826 Associazione Radio Maria v. Contact Privacy Inc. / ICS Inc;
- WIPO case N° D2012-0649 John L. Scott, Inc. v. PrivacyProtect.org / ICS INC;
- WIPO case N° D2012-0411 AlliedBarton Security Services LLC v. ICS Inc;
- WIPO case N° D2012-0352 National Grid Electricity Transmission Plc v. Undisclosed customer 0129436546 / ICS Inc;
- WIPO case N° D2012-0248 Amegy Bank National Association v. ICS INC. / Contact Privacy Inc; and
- WIPO case N° D2012-0122 DBA LUX 1 v. ICS INC.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

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).

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).

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).

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 disputed domain name includes the Complainant's ARCELOR trademark in its entirety with the addition of only the terms "mail" and "fr". Both such terms are commonly used in internet addresses to direct internet traffic. According to standard case law under the UDRP an additon of a generic term to a trademark does not take away the similarity between domain name and trademark. The Panel therefore finds that the disputed domain name is confusingly similar to the Complainant's ARCELOR trademarks.

2. The Panel finds that the Complainant has established that the Respondent was not licenced or authorised to use the Complainant's trademarks in the disputed domain name. Furthermore, the Panel finds the Complainant successfully submitted prima facie evidence that the Respondent has made no use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services, nor is making a legitimate non-commercial or fair use of the disputed domain name, nor is commonly known under the disputed domain name. The Panel therefore finds the Respondent has no rights or legitimate interests in respect of the Domain Name.

3. In the absence of a Response, the Panel infers from the following circumstances a lack of good faith: (i) the Respondent must have registered and used the disputed domain name with the Complainant’s trademarks ARCELOR in mind, (ii) the Respondent has failed to respond to any communication of the Complainant or formal notification of the CAC, (iii) the Respondent has registered and used the disputed domain name with the purpose of commercial gain, because the disputed domain name resolves to a third party link parking page, where the disputed domain name is offered for sale and (iv) the Respondent has shown a pattern of previous use and registration of domain name registrations in bad faith. Although the Complainant has not explained or substantiated how the misspelling of the disputed domain name results in the Respondent trying to take advantage thereof, this does not takeaway of the other findings of bad faith in this respect. For these reasons the panel concludes that the disputed domain name was registered and is being used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **MAILFRARCELOR.NET**: Transferred

PANELLISTS

Name	**Alfred Meijboom**

DATE OF PANEL DECISION 2012-10-08

Publish the Decision