Decision for dispute CAC-UDRP-100904

Case number	CAC-UDRP-100904
Time of filing	2014-12-30 12:05:03
Domain names	arcelormittal-credit.com

Case administrator

Name	Lada Válková (Case admin)

Complainant

Organization	ARCELORMITTAL S.A.

Complainant representative

Organization	Nameshield (Anne Morin)

Respondent

Organization	Roma Marx

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 owner of several trademarks "ARCELORMITTAL". In particular, Arcelormittal owns the International Trademark no. 947686, registered on August 3, 2007 and claiming protection for numerous countries of the world.

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 operations in more than 60 countries. It holds sizeable captive supplies of raw materials and operates extensive distribution networks.

The disputed domain name <arcelormittal-credit.com> was registered on October 30, 2014.

The Complainant states that the disputed domain name <arcelormittal-credit.com> is confusingly similar to its trademark ARCELORMITTAL. The addition of a dash "-" and of the generic term "credit" are not sufficient to escape the finding that the

domain name is confusingly similar to the trademark "ARCELORMITTAL".

The Complainant states that the Respondent is not affiliated with him nor authorized by him in any way. The Complainant states that the Respondent has no right nor legitimate interest in the disputed domain name and it is not related in any way to its business. The Complainant does not carry out any activity for, nor has any business with the Respondent. The Respondent is not commonly known by <arcelormittal-credit.com> or by other names similar to the disputed domain name.

The website corresponding to <arcelormittal-credit.com> is inactive since the registration of the disputed domain name. Given the distinctiveness of the Complainant's trademark and reputation it is reasonable to infer that the Respondent has registered the domain name with the full knowledge of the Complainant's trademarks.

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

The disputed domain name <arcelormittal-credit.com> combines three elements: (1) the wording "arcelormittal" (2) the term "credit" and (3) the top level domain name ".com". The relevant comparison to be made is with the portion of the domain name "arcelormittal". Actually, it is well established that the top-level domain name (i.e., “.com”) should be disregarded for this purpose (see, between many others, Playboy Enterprises International, Inc. v. John Taxiarchos, WIPO Case No. D2006 - 0561). Furthermore, the generic term "credit" does not distinguish the disputed domain name from Complainant’s "ARCELORMITTAL" mark. In general, when a distinctive mark is combined with less distinctive terms, the combination will typically be found to be confusingly similar to the distinctive mark. The combination does not prevent the likelihood of confusion between the disputed domain name and the Complainant's trademark (see Arcelormittal S.A. v. Name Francois Dumontier, CAC Case. No. 100855). In particular, previous Panels have held that, if a domain name incorporates a Complainant's mark in its entirety, it is confusingly similar to that mark despite the addition of the word "credit" (see Experian Information Solution, Inc v. Credit Research, Inc., WIPO Case. No. D2002-0095 and Hang Seng Bank Limited v. Websen Inc., WIPO Case No. D2000-0651). Therefore, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark "ARCELORMITTAL".

The Complainant has long standing rights in the mark "ARCELORMITTAL". The Complainant provided prima facie evidence that the Respondent does not have rights or legitimate interests in respect of the disputed domain name as it is not commonly known under the disputed domain name and as the Respondent was never authorized to use the domain name by the Complainant. The Respondent, in the absence of any response, has not shown any facts or element to justify prior rights or legitimate interests in the disputed domain name. The Complainant has not licenced or otherwise permitted the

Respondent to use the Complainant's marks in the disputed domain name. On the basis of the evidences submitted and in the absence of a response the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

The disputed domain name is inactive. This circumstance does not prevent a finding of bad faith use. Previous Panels have held that the passive holding of a domain name can be considered as use in bad faith (see, between many others, Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003 and Cleveland Browns Football Company LLC v. Andrea Denise Dinoia, WIPO Case No. D2011-0421). Furthermore it is the Panel's view that the disputed domain name has been registered in bad faith because the Respondent was or must have been perfectly aware of the existence of "ARCELORMITTAL" trademark, which is highly distinctive and unique for the registered goods and services, when the same Respondent registered the domain name <arcelormittal-credit.com>. When considering this, in conjunction with the fact that the Respondent has been passively holding the disputed domain name and has not submitted any evidence suggesting that the domain name was selected for a legitimate use or purpose, an inference of bad faith registration and use is made by the Panel (see, between many others, Incipio Technologies, inc. v. Starfield Services Ltd, WIPO Case No. D2011-0418)
In consideration of the above, the Panel deems that the domain name in dispute was registered and 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. **ARCELORMITTAL-CREDIT.COM**: Transferred

PANELLISTS

Name	**Avv. Guido Maffei**

DATE OF PANEL DECISION 2015-02-03

Publish the Decision