Decision for dispute CAC-UDRP-101212

Case number	CAC-UDRP-101212
Time of filing	2016-06-10 09:15:05
Domain names	ARCHALORMITTAL.COM

Case administrator

Name	Lada Válková (Case admin)

Complainant

Organization	ARCELORMITTAL

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Name	kingsley Kingsleymack

OTHER LEGAL PROCEEDINGS

None.

IDENTIFICATION OF RIGHTS

The Complainant owns various trademark registrations for the "ArcelorMittal" mark throughout the world, including the international trademark registrations no. 947686, registered on 3 August 2007 for numerous goods and services in classes 06, 07, 09, 12, 19, 21, 39, 40, 41, and 42. This international trademark registration covers a large number of countries (AL, AM, AU, AZ, BA, BY, CH, CN, CU, DZ, EG, EM, GE, IR, IS, JP, KE, KG, KP, KR, KZ, LR, MA, MC, MD, MK, MN, NO, RS, RU, SD, SG, SM, SY, TJ, TR, UA, US, UZ, VN).

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.

The Respondent has registered the disputed Domain Name <archalormittal.com> on 16 April 2016. Between 16 April and 16 May 2016 the Respondent has used the disputed Domain Name to send and receive extensive scam email correspondence with one of Complainant's business contacts, namely by pretending to be the Complainant’s employee Asli B. and using the

email address FIRSTNAME.LASTNAME@archalormittal.com, while the correct email address of this Complainant's employee is FIRSTNAME.LASTNAME@arcelormittal.com.

The Complainant states that the Respondent is not affiliated with the Complainant nor authorized by the Complainant in any way. The Complainant states that the Respondent has no right nor legitimate interest in the disputed domain name, and that the Respondent is not related in any way to the Complainant's business. The Respondent does not carry out any activity for, nor has any business with the Complainant. Since its registration, the disputed Domain Name <archalormittal.com> has never been used for an active website.

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 is confusingly similar to Complainant's trademark. In fact, the Disputed Domain is almost identical to Complainant's ArcelorMittal mark, barring the substitution of the letters "HA" instead of the letter "E", and the addition of ".com". This minor substitution of letters is an evident typo variation of the Complainant's ArcelorMittal mark. Further, the addition of the generic top-level domain ".com" does nothing to distinguish the Disputed Domain from the Complainant's mark.

The Complainant has made a prima facie showing that the Respondent lacks a right or legitimate interest in the Disputed Domain name. The Respondent not only registered the Disputed Domain long time after Complainants rights in the ArcelorMittal mark arose, but has used the Disputed Domain immediately after its registration on 16 April 2016 for scam email communication in an effort to confuse one of the Complainant's customers. The Respondent has not used the Disputed Domain in connection with a bona fide offering of goods or services, because fraudulent email communication evidently does not constitute a bona fide offering of goods and services. There is also no evidence that the Respondent is commonly known by the Disputed Domain, particularly as the Respondent does not provide a website in connection with the Disputed Domain. Finally, the Respondent's use of the Disputed Domain for fraudulent email communication does not constitute a legitimate or non-commercial fair use. Accordingly, the Panel accepts the arguments and evidence advanced by the Complainant that the Respondent has no rights or legitimate interests in the Disputed Domain Name within the meaning of paragraphs 4(a)(ii) and 4(c) of the Policy.

Registration and use of the disputed Domain name for scam email communication, i.e. for a fraudulent misrepresentation of the Respondent as one of the Complainant's employees, is an evident case of registration and use of the Domain Name in bad faith for the purposes of paragraphs 4(a)(iii) of the Policy (cf. CAC Case No. 100909 - ArcelorMittal S.A. v. Chugh

Davinder - < ARCELORMTTAL.COM>).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ARCHALORMITTAL.COM**: Transferred

PANELLISTS

Name	**Dr. Thomas Schafft**

DATE OF PANEL DECISION 2016-07-21

Publish the Decision