Decision for dispute CAC-UDRP-101276

Case number	CAC-UDRP-101276
Time of filing	2016-08-23 12:09:28
Domain names	arcelormittal-us.com

Case administrator

Name	Aneta Jelenová (Case admin)

Complainant

Organization	ARCELORMITTAL

Complainant representative

Organization	Nameshield (Maxime Benoist)

Respondent

Organization	Whois Privacy Corp.

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 trademark registrations for ARCELORMITTAL (word mark), including the following:

International trademark No. 947686, registered on August 3rd, 2007, in classes 6, 7, 9, 12, 19, 21, 39, 40, 41 and 42; United States trademark No. 3643643, registered on June 23rd, 2009, in classes 6, 39, 40, 41 and 42; and European Union trademark No. 0947686, registered on August 3rd, 2007, in classes 6, 7, 9, 12, 19, 21, 39, 40, 41 and 42.

The Complainant is also the owner of domain name registrations for ARCELORMITTAL, including the domain name <arcelormittal.com>, registered on January 27th, 2006, at which the Complainant operates its official web site.

FACTUAL BACKGROUND

The Complainant is a multinational steel manufacturing corporation. It is the largest steel and mining 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-us.com> was registered on July 31st, 2016 and has not been pointed to an active web site.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS

COMPLAINANT

The Complainant contends that the disputed domain name <arcelormittal-us.com> is confusingly similar to its distinctive and well-known trademark ARCELORMITTAL, since the addition of the letters “us" (referred to the United-States’ country code), a hyphen and the gTLD “.COM” does not change the overall impression of the disputed domain name is connected to the Complainant’s trademark.

The Complainant submits that the Respondent does not have any rights or legitimate interest in the disputed domain name because:

- The Respondent is not known by the Complainant;

- The Complainant does not carry out any activity for, nor has any business with the Respondent. Neither license nor authorization has been granted to the Respondent to make any use of the trademark ARCELORMITTAL, or apply for registration of the disputed domain name by the Complainant;

- The web site published at the disputed domain name <arcelormittal-us.com> is inactive since its registration.

The Complainant also states that the disputed domain name has been registered and is being used in bad faith since:

- The Complainant's trademark ARCELORMITTAL is well-known worldwide, as shown by a Google search for “Arcelormittal”, which shows several results, all of them being related to the Complainant;

- The Respondent’s registration of the disputed domain name amounts to a typosquatting;

- Given the distinctiveness and reputation of the Complainant's trademarks, it is inconceivable that the Respondent could have registered the disputed domain name without actual knowledge of the Complainant's rights in the trademark;

- The web site at the disputed domain name is inactive since its registration.

RESPONDENT

The Respondent did not reply to the Complainant’s contentions.

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).

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).

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).

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 Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark ARCELORMITTAL as it includes the trademark in its entirety, with the mere addition of the two letters "us", a hyphen and the Top-Level domain ".com" which, as stated in a number of prior decisions rendered under the UDRP, are not sufficient to exclude the likelihood of confusion.

2. The Complainant stated that the Respondent is not affiliated with or authorized by the Complainant in any way. There is no evidence of the fact that the Respondent, which is moreover hiding its identity in the WhoIs records through a privacy service, might have been commonly known by the disputed domain name or by a name corresponding to the disputed domain name. According to the evidence on records, the Respondent has simply passively held the disputed domain name and has not submitted any evidence showing that it made use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services, or that it has made a legitimate non-commercial or fair use of the disputed domain name. Therefore, and in the absence of a response, the Panel finds that the Complainant has made a prima facie case that the Respondent has no rights or legitimate interest in the disputed domain name.

3. As to the bad faith at the time of the registration, the Panel finds that, in light of the distinctiveness of the Complainant's trademark, with which the disputed domain name is confusingly similar, and of the prior registration and use of the trademark ARCELORMITTAL by the Complainant, the Respondent was more likely than not aware of the Complainant's trademark at the time of the registration of the disputed domain name.

The disputed domain name has not been used in connection with an active web site, i.e. has been passively held. As established in a number of prior cases, the concept of "bad faith use" in paragraph 4(b) of the Policy includes not only positive action but also passive holding, especially in cases of domain name registrations corresponding to distinctive and well-known trademarks; see i.a. the landmark case Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ARCELORMITTAL-US.COM**: Transferred

PANELLISTS

Name	**Luca Barbero**

DATE OF PANEL DECISION 2016-10-13

Publish the Decision