

## Decision for dispute CAC-UDRP-104364

Case number CAC-UDRP-104364

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Time of filing 2022-02-21 09:16:12

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Domain names mittaltoolsteels.com

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### Case administrator

Organization Denisa Bilík (CAC) (Case admin)

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### Complainant

Organization ARCELORMITTAL (SA)

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### Complainant representative

Organization NAMESHIELD S.A.S.

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### Respondent

Organization A WebMaker

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#### 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 (the "Domain Name").

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#### IDENTIFICATION OF RIGHTS

The Complainant is the owner of several trademark comprising or containing the term "Mittal". That includes:

- International trade mark n° 1198046 for MITTAL as a word mark registered on 5 December 2013 in classes 6 and 40 relying upon an earlier Benelux trade mark registered in 2005; and

- European trade mark n° 4233301 for MITTAL STEEL as a word mark registered on 7 January 2005 in classes 6 and 40 and claiming priority from an earlier United Kingdom registered trade mark.

The international trade mark has proceeded to grant in at least 15 jurisdictions but has been provisionally or totally refused in a number of states.

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#### 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 71.5 million tonnes crude steel made in 2020. It holds sizeable captive supplies of raw materials and operates extensive distribution networks.

The Complainant also owns a portfolio of domain names portfolio, including numerous domain names containing the word MITTAL. Examples include the domain name <mittalsteel.com> registered on 3 January 2003 and <mittal-steel.com> registered on 18 May 2009. The extent to which these domain names are actually used is not really explained, but material provided with the Complaint suggests that at least historically they may have been used to direct users to a website promoting the Complainant's business.

The Domain Name was registered on 8 February 2022 and resolves to an index page. MX servers are configured for the Domain Name.

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#### PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT 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

The Panel is satisfied that the Complainant is the owner of a number of registered trade marks in various territories for MITTAL and a European registered trade mark for MITTAL STEEL.

In order to satisfy the first element of the Policy it is usually sufficient for a complainant to show that the relevant mark is "recognizable within the disputed domain name"; see section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (the "WIPO Overview 3.0"). The Domain Name can only be sensibly understood as the terms "Mittal", "Tools", and "Steels" in combination with the ".com" generic Top-Level Domain. The marks relied upon by the Complainant are, therefore, clearly recognisable in the Domain Name.

The Complainant has, therefore, satisfied the Panel that the Domain Name is confusingly similar to trade marks in which it has rights and has thereby made out the requirements of paragraph 4(a)(i) of the Policy.

Exactly why the Respondent has registered the Domain Name is unclear. The reference to the use of the Domain Name for an "Index site" is supported by a screenshot which suggests that a browser using that domain name will display an index page showing no substantial content at that online location. Further, although the Complainant refers to the fact that MX servers are configured for the website, which appears to be an assertion that the Domain Name has been configured for use for email, there is no claim by the Complainant that this is how the Domain Name has actually been used.

There are also other aspects of the Complaint that are problematic and which suggest that it has been prepared from a template with not a great deal of thought being given to the actual facts of this case. For example, the Complaint refers to the Complainant's domain name portfolio. However, mere ownership of a domain name does not demonstrate how any name used in the domain name is associated is understood by the relevant public.

The Complainant does at one point in the Complaint cite another UDRP case (in particular WIPO Case D2010-2049) which it was apparently concluded that the "MITTAL and MITTAL STEEL marks have "been widely used and are well-known", but no attempt is made in the Complaint to explain how what form that use has taken and why that is the case.

Further, the Respondent appears to be located in India. An examination of the register in respect of the international mark relied upon suggests that although the mark originally designated India, registration in that country was refused. It is certainly not a requirement of the Policy that a complainant has a mark in the territory in which a respondent is located. But that refusal is curious.

Nevertheless, there is no suggestion that the term "Mittal" is in any way descriptive or generic. On the contrary, a review of the decision in WIPO Case D2010-2049 suggests that the origin of this term is as the name of substantial business that became part of the Complainant as a result of a merger in 2006.

Therefore, in the absence of any argument or evidence to the contrary the Panel is persuaded that the combination of this term with the words Tool and Steel is a direct and deliberate reference to the Complainant. And if this is so, it is difficult to see how a domain name in this form might be used in a manner that was legitimate.

The Panel is, therefore, satisfied on the material before it that it is more likely than not that the Domain Name was registered and has been held in order to take some unfair advantage of the Complainant's trade mark rights. That is sufficient to support a finding of lack of rights or legitimate interest and of bad faith registration and use (see in this respect section 2.15 and 3.1 of the WIPO Overview 3.0).

It follows that the Complainant has also made out the requirements of paragraph 4(a)(ii) and (iii) of the Policy.

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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. MITTALTOOLSTEELS.COM: Transferred

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## PANELLISTS

|      |                |
|------|----------------|
| Name | Matthew Harris |
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DATE OF PANEL DECISION 2022-03-18

Publish the Decision

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