

Decision for dispute CAC-UDRP-104355

Case number	CAC-UDRP-104355
-------------	------------------------

Time of filing	2022-02-21 09:14:29
----------------	----------------------------

Domain names	aceros-mittal.com
--------------	--------------------------

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
--------------	--

Complainant

Organization	ARCELORMITTAL (SA)
--------------	---------------------------

Complainant representative

Organization	NAMESHIELD S.A.S.
--------------	--------------------------

Respondent

Name	Aceros Mittal
------	----------------------

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 proved to be the owner of the:

International trademark n° 1198046 for MITTAL® registered on December 5, 2013; and
European Union trademark n° 4233301 for MITTAL STEEL® registered since January 7, 2005.

The Complainant also owns the domain names <mittalsteel.com> registered since January 3, 2003 and <acerosmittal.com> registered since February 28, 2019.

FACTUAL BACKGROUND

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

According to the Complainant submissions, Arcelormittal 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, operating in more than 60 countries.

Furthermore, the Complainant holds numerous trademarks protecting the element "MITTAL" including the International trademark registration no. 1198046 and the EU trademark registration no. 4233301.

The Complainant also owns several domain names incorporating the element "MITTAL" including <mittalsteel.com> and <acerosmittal.com>.

The disputed domain name <aceros-mittal.com> was registered on February 13, 2022 and resolved to a website reproducing the Complainant's logo and selling steel.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant supports that the disputed domain name is confusingly similar to its trademarks as the element "MITTAL" is entirely contained in <aceros-mittal.com>. The Complainant adds that the element "ACEROS" has no significant impact in the confusing similarity assessment due to its descriptive nature.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the domain name <aceros-mittal.com> 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 license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark MITTAL, or apply for registration of the disputed domain name by the Complainant.

The Complainant supports that the actual use of the disputed domain name is not indicative of rights or legitimate interests.

As regards registration and use in bad faith, the Complainant claims that since the MITTAL trademark is widely known, it is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainant's rights.

Moreover the use of the disputed domain name in the same field of the Complainant and the use of an identical figurative trademark suggests that <aceros-mittal.com> is used to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the respondent's website or location, as mentioned by Policy, paragraph 4(b) (iv).

RESPONDENT: No administrative response was filed by the Respondent.

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 disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

The Complainant has successfully proved to be the owner of the trademarks MITTAL and MITTAL STEEL and of the domain names <mittalsteel.com> and <acerosmittal.com>.

The Panel finds that the trademark "MITTAL" is fully recognizable in the disputed domain name. The addition of the element "ACEROS" does not affect the confusing similarity assessment between the disputed domain name and the trademarks. It is significant that the term "ACEROS" means "steel" for the Spanish speaking portion of the relevant public; thus, for this public, the addition of "ACEROS" will increase rather than limit the risk of confusion as it will be perceived as strictly related to the Complainant's field of business.

The Complainant agrees that the ".com" extension has no impact in the confusing similarity assessment due to its technical function.

As a consequence, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark, for the purposes of the First Element of the Policy.

2. The Respondent lacks rights or legitimate interests in the disputed domain name.

Pursuant to paragraph 4(a)(ii) of the Policy, a complainant is required to make out a prima facie case that a respondent lacks rights or legitimate interests in the disputed domain name. Once such a prima facie case is made, the respondent carries the burden of demonstrating its rights or legitimate interests in the disputed domain name. If the respondent fails to do so, the complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

In this case, the Panel finds that the Complainant's submitted evidence and allegations are sufficient to establish a prima facie case of Respondent's lack of rights and legitimate interests in the disputed domain name.

According to the information provided by the Complainant and not contested, the Respondent is not commonly known by the disputed domain name nor he is authorized to use the Complainant's trademark "MITTAL". The fact that the name of the Respondent's organization appears to be "Aceros Mittal" does not automatically grant to the Respondent a right / legitimate interest in the disputed domain name. To that effect, the Respondent should have proved that "Aceros Mittal" is and was effectively used in the market.

Moreover, the Panel agrees that the actual use of the disputed domain name is not indicative of rights or legitimate interests. As a matter of fact, <aceros-mittal.com> is used in the same industrial field of the Complainant and the Respondent also uses the Complainant's orange logo. The Panel finds that such use is far from being legitimate for the purposes of the Policy.

For these reasons, the Panel takes the view that the Respondent lacks rights or legitimate interests in the disputed domain name for the purposes of the Policy.

3. The disputed domain name was registered and is used in bad faith.

The Panel finds the following circumstances as material in order to establish the Respondent's bad faith in the registration of the disputed domain name:

(i) the disputed domain name was registered well after the Complainant acquired rights on the trademark MITTAL;

(ii) the Complainant's trademark is widely known as confirmed by previous Panels. The reputation of the trademark MITTAL makes it very improbable that the Respondent was not aware of the Complainant's exclusive rights on MITTAL at the time of the registration of the disputed domain name;

(iii) the disputed domain name combines the well-known MITTAL trademark with the Spanish term "aceros". This is an additional index that the Respondent was aware of the Complainant and its business conducted under the MITTAL trademark. As previously said, the Complainant is active in the steel field and "aceros" means steel in Spanish.

As regards use in bad faith, the Panel considers that the use of the disputed domain name in the same industrial field of the Complainant and the fact that the Respondent uses the figurative trademark of the Complainant are indexes that <aceros-mittal.com> was used to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the respondent's website or location, as mentioned by Policy, paragraph 4(b) (iv).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ACEROS-MITTAL.COM:** Transferred
-

PANELLISTS

Name	Andrea Mascetti
------	------------------------

DATE OF PANEL DECISION	2022-03-25
------------------------	------------

Publish the Decision
