

Decision for dispute CAC-UDRP-104460

Case number CAC-UDRP-104460

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Domain names arcelormittalveba.org

Case administrator

Organization Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization ARCELORMITTAL (SA)

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Organization Solidarity Health Network, Inc.

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 the international trademark n° 947686 ARCELORMITTAL registered on August 3, 2007.

The Complainant also owns a domain names portfolio, including the same wording ARCELORMITTAL, such as the domain names <arcelormittal.com> registered since January 27, 2006.

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. It holds sizeable captive supplies of raw materials and operates extensive distribution networks.

The Complainant is the owner of the international trademark n° 947686 ARCELORMITTAL registered on August 3, 2007.

The Complainant also owns an important domain names portfolio, including the same wording ARCELORMITTAL, such as the domain names <arcelormittal.com> registered since January 27, 2006.

The disputed domain name <arcelormittalveba.org> was registered on October 17, 2007, and resolves to a parking page.

The Complainant contends that the disputed domain name is confusingly similar to the trademark ARCELORMITTAL, because the disputed domain name includes Complainant's trademark in its entirety.

The Complainant asserts that the addition of the abbreviation "VEBA" (for "Voluntary Employees' Beneficiary Association") is not sufficient to escape the finding that the domain name is confusingly similar to the trademark and branded goods ARCELORMITTAL. It does not change the overall impression of the designation as being connected to the Complainant's trademark ARCELORMITTAL. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and the domain name associated. It is well established in the view of Complainant that "a domain name that wholly incorporates a Complainant's registered trademark may be sufficient to establish confusing similarity for purposes of the UDRP".

Furthermore, the Complainant contends that the addition of the gTLD ".ORG" does not change the overall impression of the designation as being connected to the Complainant's trademark. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and its domain names associated.

Consequently, the disputed domain name is in the view of Complainant confusingly similar to Complainant's trademark ARCELORMITTAL.

The Complainant asserts that the Respondent is not known as the disputed domain name. Past panels have held that a Respondent was not commonly known by a disputed domain name if the Whois information was not similar to the disputed domain name. Thus, in the view of Complainant the Respondent is not known as the disputed domain name.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name and he 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 ARCELORMITTAL or apply for registration of the disputed domain name by the Complainant.

Moreover, the disputed domain name resolves to a parking page. The Complainant contends that Respondent did not use the disputed domain name, and it confirms that Respondent has no demonstrable plan to use the disputed domain name.

Thus, in accordance with the foregoing, the Complainant contends that the Respondent has no right or legitimate interest in respect of the disputed domain name.

The Complainant contends that the disputed domain name is confusingly similar to its distinctive trademark ARCELORMITTAL, and was registered a few weeks after the registration of the trademark on August 3, 2007, which cannot be coincidental.

Besides, the term "ARCELORMITTAL" has no meaning, except in relation to the Complainant.

Thus, given the distinctiveness of the Complainant's trademark and reputation, it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's trademark.

Besides, the disputed domain name resolves to a parking page. The Complainant contends that the Respondent has not demonstrated any activity in respect of the disputed domain name, and it is not possible to conceive of any plausible actual or contemplated active use of the domain name by the Respondent that would not be illegitimate, such as by being a

passing off, an infringement of consumer protection legislation, or an infringement of the Complainant's rights under trademark law. As prior WIPO UDRP panels have held, the incorporation of a famous mark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use.

Thus, Complainant contends that Respondent has registered the disputed domain name and is using it in bad faith.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

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

In order to succeed in its claim, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied:

(i) The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

(ii) The Respondent has no rights or legitimate interests with respect to the disputed domain name; and

(iii) The disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has established the fact that it has valid trademark rights for "ARCELORMITTAL".

The disputed domain name is confusingly similar to the Complainant's mark since it enclosed the Complainant trademark in its entirety and adding the element "VEBA", which is the usual abbreviation of "Voluntary Employees' Beneficiary Association", at the end of the domain name is descriptive and of no distinctiveness.

It is well established that “a domain name that wholly incorporates a Complainant’s registered trademark may be sufficient to establish confusing similarity for purposes of the UDRP”. See WIPO Case No. D2003-0888, Dr. Ing. h.c. F. Porsche AG v. Vasily Terkin.

The Panel therefore considers the disputed domain name to be confusingly similar to the trademark "ARCELORMITTAL" in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Respondent has no rights or legitimate interests in the disputed domain name, since the Respondent is not a licensee of the Complainant nor has the Complainant granted any permission or consent to the Respondent to use its trademarks or designations confusingly similar to its trademarks. Furthermore, the Respondent has no rights or legitimate interests in the disputed domain name, since there is no indication that the Respondent is commonly known by the name “ARCELORMITTAL” or that the Respondent is using the disputed domain name in connection with a bona fide offering of goods or services.

The Panel therefore finds that the Respondent does not have rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

The Panel does not believe that the application of a domain name being highly similar to a distinctive and well-known trademark as the one from Complainant, even with the addition of the common abbreviation "VEBA", is accidental.

The Panel finds that the trademark ARCELORMITTAL is so well-known internationally for metals and steel production that it is inconceivable that the Respondent might have registered a domain name similar to or incorporating the mark without knowing of it.

The Panel does not see any conceivable legitimate use that could be made by the Respondent of this particular domain name without the Complainant’s authorization.

The disputed domain name was registered a few weeks after the registration of the trademark of Complainant on August 3, 2007, which does not seem to be coincidental.

Besides, the term “ARCELORMITTAL” has no meaning, except in relation to the Complainant.

The disputed domain name resolves to a parking page. Respondent has not demonstrated any activity in respect of the disputed domain name, and it is not possible to conceive of any plausible actual or contemplated active use of the domain name by the Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant’s rights under trademark law.

The Panel therefore finds, that the incorporation of a famous mark into a domain name in its entirety, coupled with an inactive website, is evidence of bad faith registration and use in this case.

The Panel therefore considers the disputed domain name to have been registered and used in bad faith in accordance with paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. ARCELORMITTALVEBA.ORG: Transferred

PANELLISTS

Name **Jan Christian Schnedler, LL.M.**

DATE OF PANEL DECISION **2022-04-25**

Publish the Decision
