Decision for dispute CAC-UDRP-104434

Case number	**CAC-UDRP-104434**
Time of filing	**2022-03-23 09:18:31**
Domain names	**arcelormittal-romania.com**

Case administrator

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

Complainant

Organization	**ARCELORMITTAL (SA)**

Complainant representative

Organization	**NAMESHIELD S.A.S.**

Respondent

Name	**bill chill**

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 submitted evidence that it is the registered owner of the international trademark registration no. 947686 for the "ArcelorMittal" word, registered on 3 August 2007 in classes 6, 7, 9, 12, 19, 21, 39, 40, 41 and 42 designating numerous countries around the world.

FACTUAL BACKGROUND

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.

In addition to the asserted trademark, the Complainant also holds the domain name <arcelormittal.com> registered since 27 January 2006.

The disputed domain name <arcelormittal-romania.com> was registered on 16 March 2022 and is inactive.

The Registrar confirmed that the Respondent is the current registrant of the disputed domain name and that the language of the registration agreement is English.

The Respondent has not filed a Response.

PARTIES CONTENTIONS

The Complainant made the following contentions:

The Complainant contends that the disputed domain name is confusingly similar to the asserted trademark. Indeed, the domain name includes it in its entirety.

The Complainant asserts that the addition of the geographic term “ROMANIA” 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 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 “.COM” 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 Complainant argues that the disputed domain name is confusingly similar to the Complainant’s trademark.

Furthermore, the Complainant points to the established case law on prima facie case.

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, 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 to 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 or apply for registration of the disputed domain name by the Complainant.

Moreover, the disputed domain name is inactive. The Complainant contends that the Respondent did not use the disputed domain name, and it confirms that the 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.

Turning to the bad faith argument, the Complainant contends that the disputed domain name is confusingly similar to its distinctive trademark. The Complainant’s trademark “ARCELORMITTAL” is widely known. Past panels have confirmed the notoriety of the trademark “ARCELORMITTAL” in the following cases: CAC Case No. 101908 and CAC Case No. 101667.

Given the distinctiveness of the Complainant's trademark and reputation and the fact exposed above, 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 is inactive. 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.

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

This is a mandatory administrative proceeding pursuant to Paragraph 4 of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules") and the CAC Supplemental Rules.

Paragraph 15 of the Rules provides that the Panel shall decide the complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

According to Paragraph 4(a) of the Policy, a complainant must prove each of the following: (i) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; (ii) the respondent has no rights or legitimate interests in respect of the domain name; (iii) the domain name has been registered and is being used in bad faith.

A. Identical or confusingly similar domain name

The Complainant demonstrated that it owns the asserted international trademark registration for the word mark "ArcelorMittal" which was registered almost 15 years earlier than the disputed domain name. It is well established that a nationally or regionally registered trademark confers on its owner sufficient rights to satisfy the requirement of having trademark rights to stand to file a UDRP case. Therefore, the Panel finds that the Complainant has established such rights.

It is also well established that the generic top-level suffix .com may be disregarded when considering whether a disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

The disputed domain name incorporates the Complainant's trademark "ArcelorMittal" in its entirety.

The Panel agrees with the Complainant that the adding of the geographic term "ROMANIA" is by no means sufficient to prevent or diminish the confusing similarity with the Complainant's trademark, as it lacks distinctive character.

The Panel, therefore, finds that the disputed domain name is confusingly similar to a trademark to which the Complainant has rights.

B. Lack of rights or legitimate interests

The Respondent has not filed a Response and has neither provided any other information that would oppose the Complainant's allegations. Therefore, the Panel holds that the Complainant successfully presented its prima facie case that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

In particular, the Respondent is not in any way connected with the Complainant nor is it authorised to use the Complainant's trademark for its commercial activities. In addition, the Respondent is not commonly known by the disputed domain name pursuant to Paragraph 4(c)(ii) of the Policy. Furthermore, it was demonstrated by evidence submitted by the Complainant that the disputed domain name has not been used for a bona fide offering of goods or services or a legitimate non-commercial or fair use.

The Panel, therefore, finds that the Respondent has no rights or legitimate interest in the disputed domain name.

C. Registration and use of the disputed domain name in bad faith

With respect to the bad faith argument, the Complainant states, in summary: (a) that the disputed domain name is confusingly similar to its well-known trademark; (b) that the Respondent had actual knowledge of the Complainant's rights in its trademarks; and (c) that the disputed domain name is not active.

The Panel has already found that the disputed domain name is confusingly similar to the Complainant's trademark "ArcelorMittal". It is well established that the mere registration of a domain name that is confusingly similar to a trademark by an unaffiliated entity can lead to the presumption of bad faith.

In addition, the Panel believes that the Complainant submitted evidence that sufficiently demonstrate the Respondent must have (or should have) been aware of the existence of the Complainant, its well-known trademark as well as its domain name. It is difficult to find any good faith reason for the registration of the disputed domain name by the Respondent.

With respect to the fact that the disputed domain name has not been active, the Panel notes that the so-called passive holding of a domain name cannot prevent a finding of bad faith. In this present case, the Complainant's trademark is highly distinctive and there seems no plausible good faith use for the disputed domain name.

With that in mind, the Panel concludes that several signs of bad faith in registering and use of the disputed domain name by the Respondent can be found in this case. Therefore, the Panel finds that the disputed domain name has been registered and has been used by the Respondent in bad faith.

In conclusion, the Panel finds that all three elements required by Paragraph 4(a) of the Policy were met and makes the following decision.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

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

PANELLISTS

Name	**Mgr. Vojtěch Chloupek**

DATE OF PANEL DECISION 2022-05-11

Publish the Decision