Decision for dispute CAC-UDRP-104528

Case number	**CAC-UDRP-104528**
Time of filing	**2022-04-27 09:37:04**
Domain names	**arcselormittal.com**

Case administrator

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

Complainant

Organization	**ARCELORMITTAL (SA)**

Complainant representative

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

Respondent

Name	**Jacob Slaten**

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 registration No. 947686 for ARCELORMITTAL (word mark), registered on 3 August 2007.

The Complainant also owns an important domain names portfolio containing its trademarks, such as the domain name < arcelormittal.com> registered since 27 January 2006.

FACTUAL BACKGROUND

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

The Complainant is a well-established steel producing 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.

The disputed domain name <arcselormittal.com> was registered on 20 April, 2022, and is not currently used in connection with any goods or services as it results in an inactive webpage.

No information is known about the Respondent who registered the disputed domain name <arcselormittal.com> under a proxy.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

Identical or confusingly similar

The Complainant argues that the disputed domain name <arcselormittal.com> and the Complainant's registered trademark are confusingly similar.

Particularly, the Complainant contends that the disputed domain name <arcselormittal.com> contains an obvious misspelling of the Complainant’s trademark ARCELORMITTAL by adding the letter “S” in the middle of the trademark name and considers the present situation is a clear case of “typosquatting”.

The Complainant also points out that the applicable Top-Level suffix “-.com” does not per se prevent the likelihood of confusion.

No rights or legitimate interests

The Complainant argues that that the Respondent is not commonly known by the disputed domain name or a name corresponding to the disputed domain name, and that the Respondent is making any businesses with the Complainant. Moreover, the Complainant states that the Respondent has no rights or legitimate interests in respect of the domain name <arcselormittal.com> and 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.

According to the Complainant, 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.

Registered and used in bad faith

As far as bad faith registration is concerned, the Complainant states due to its worldwide presence and considering that the Complainant’s trademark ARCELORMITTAL has been widely used and is well-known, the Respondent certainly had full knowledge of the Complainant rights over the name ARCELORMITTAL at the time of the disputed domain name’s registration.

Moreover, the Complainant contends that, despite that the disputed domain name has not been used until now, MX servers were configured which suggests that it may be actively used for e-mail purposes. Therefore, according to the Complainant, the inactivity of the Respondent may lead to active use shortly, and thus the current inactive use is a clear case of use of the domain name in bad faith.

Thus, according to the Complainant, the Respondent registered the disputed domain name <arcselormittal.com> and is using it in bad faith.

RESPONDENT:

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 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

Paragraph 15 of the Rules states that the Panel decides a 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 deemed applicable.

In the case of default by a Party, Rule 14 states that if a Party, in the absence of exceptional circumstances, does not comply with a provision of, or requirement under the Rules, the Panel draws such inferences therefrom as appropriate.

In the present case, the Respondent has not submitted any Response and consequently has not contested any of the contentions made by the Complainant.

The Panel proceeds therefore to decide only on the basis of the Complainant’s factual statements and the documentary evidences provided in support of them.

1.
The Panel finds that the disputed domain name <arcselormittal.com> is visually, conceptually and phonetically very similar with the Complainant’s registered trademark ARCELORMITTAL, given that the signs contain the majority of the same letters, have the same word structure and look alike at the first sight. Indeed, the disputed domain name appears to be a misspelled version of the registered trademark rather than a different denomination independently selected by the Responded.

Moreover, the addition of just one letter and the gTLD “.com”, which would usually be disregarded as it is a technical requirement of registration, do not later the overall very similar impression the disputed domain name and the registered trademark produce.

Accordingly, the Panel considers that the disputed domain name and the Complainant’s previously registered trademark are confusingly similar and infers that paragraph 4(a)(i) of the Policy is satisfied.

2. According to the Complainant’s contentions and evidences submitted within this proceeding, which were not disputed, the Respondent does not appear to be in any way related to the Complainant's business, does not act as the agent of the Complainant, and has not been authorized to use a trademark “ARCELORMITTAL”, or any combination of such trademark.

Furthermore, the disputed domain name <arcselormittal.com> resolves currently in blank web page. Therefore, it is reasonable to infer that the Respondent does not have any legitimate interest in the disputed domain name and rather reserves the disputed domain name for his possible own commercial gain by trying to pass of as the Complainant.

Consequently, and in the absence of a Response, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, so that the requirements of paragraph 4(a)(ii) of the Policy are met.

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 due to the worldwide presence of the Complainant's business known under the name of its trademark, the Respondent was more likely to be aware of the Complainant's trademark ARCELORMITTAL at the time of the registration of the disputed domain name.

Indeed, by choosing and registering the disputed domain name which represents a misspelled version of the Complainant's well-known trademark, the Respondent is likely to be engaged in typosquatting, a practice by which a registrant of a domain name deliberately introduces slight deviations into famous marks for its commercial gain.

Furthermore, the Complainant notes that the disputed domain name does not resolve to any web site or other on-line presence, nor appears to have been used so far. In this regard, prior panels have discussed the passive holding of domain names (e.g. in Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003) and found that the passive holding itself can constitute bad faith use.

The Panel recalls that „the relevant issue is not whether the Respondent is undertaking a positive action in bad faith in relation to the domain name, but instead whether, in all the circumstances of the case, it can be said that the Respondent is acting in bad faith". (see Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003).

The particular circumstances of this case allow the Panel to infer that this is the case when the inactivity of the domain name holder could be considered as a bad faith use, given that:

(i) The Complainant's business name and trademark "ARCELORMITTAL" has a strong reputation and is widely known, as evidenced by its substantial use in several countries;

(ii) The disputed domain name is a misspelled version of the Complainant's trademark;

(iii) The MX servers were configured which suggests that the disputed domain name may be actively used for email purposes;

(iv) The Respondent has taken active steps to hide its identity;

(v) the Respondent has provided no evidence whatsoever of any actual or contemplated good faith use by it of the disputed domain name.

Taking into account all of the above, 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.

In light of these particular circumstances, the Panel concludes that the Respondent's passive holding of the domain name in this particular case satisfies the requirement of paragraph 4(a)(iii) that the domain name "is being used in bad faith" by Respondent.

Under such circumstances, the Panel finds that the disputed domain name was registered and is being used in bad faith.

Accordingly, the Panel finds that the Complainant has satisfied 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. **ARCSELORMITTAL.COM**: Transferred

PANELLISTS

Name	**JUDr. Hana Císlerová, LL.M.**

DATE OF PANEL DECISION 2022-05-27

Publish the Decision