

Decision for dispute CAC-UDRP-104508

Case number	CAC-UDRP-104508
Time of filing	2022-04-19 09:40:34
Domain names	arcelormittalteam.com

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (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

Name	Bill Chill
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OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant has adduced evidence that it owns the following trademarks which remain valid:

- International trademark No. 947686 "ArcelorMittal", registered on 3 August 2007 in Nice Classification List Classes 6, 7, 9, 12, 19, 21, 39, 40, 41 and 42 on the basis of a basic Benelux registration in the same year;
- UK trademark No. 00800947686 for the same mark, registered on 24 November 2008 in the same classes.

It also adduced evidence that the Complainant is the registrant of the domain name <arcelormittal.com>, registered on 26 January 2006. The Complainant claims without submitting evidence to have a wider portfolio of domain name registrations.

The Respondent registered the disputed domain name <arcelormittalteam.com> on 10 April 2022.

FACTUAL BACKGROUND

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

The Complainant is the largest steel producing company in the Americas and Europe, has around 168,000 employees internationally and leads the market in steel for automotive, construction, household appliances and packaging uses in particular. It holds sizeable captive supplies of raw materials, has over 200 trademarked products, and operates extensive distribution networks.

On the basis of screenshot evidence, the Complainant shows that the disputed domain name resolves to an error page and its e-mail servers are configured to redirect to an address that combines an altered form of the disputed domain name string in the user part of the destination address with a completely unrelated <.com> domain name.

Further screenshot evidence indicates that the disputed domain name's servers are located in Bulgaria.

Although not mentioned by the Complainant, the Case File shows that the registration details given for the Respondent, "Bill Chill", include a postal address for him in Karlstad, Sweden. This address is that of the Complainant's Steel Service Centre in Sweden.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

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.

The addition of the generic term "team" in the disputed domain name is not sufficient to escape the finding that it is confusingly similar to the Complainant's trademark and branded goods. Nor is the addition of the Top Level Domain technical designator <.com>.

Decisions of past panels have confirmed the notoriety of the trademark "ARCELORMITTAL", while WIPO Case No. DCO2018-0005 found this trademark to be "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 Complainant asserts that 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 domain name and that he is not related in any way with the Complainant. The Complainant does not carry out any activity for, nor has it any business with, the Respondent.

According to WIPO Case No. D2003-0455, the Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such a prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a) (ii) of the UDRP.

Concerning the UDRP criterion of bad faith, it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's trademark.

Since the disputed domain name resolves to an error 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 disputed domain name by the Respondent that would not be illegitimate.

The configuration of the Respondent's servers suggests that the disputed domain name may be actively used for email purposes. The Complainant here invokes CAC Case No. 102827, JCDECAUX SA v. Handi Hariyono for the statement that: "There is no present use of the disputed domain name but there are several active MX records connected to the disputed domain name. It is concluded that it is inconceivable that the Respondent will be able to make any good faith use of the disputed

domain name as part of an e-mail address.”.

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 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 that 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 the UDRP were met and that there is no other reason why it would be inappropriate to provide a decision.

The Panel notes that:

(1) it exercised its general powers under Paragraph 10 of the Rules to perform a brief check of the Respondent's registration details as part of the Panel's scrutiny of the Case File;

(2) in its résumé of the Parties' contentions, citation of Decisions of past Panels contained in the Amended Complaint has not been repeated in the present Decision except where pertinent for arriving at determinations in this proceeding;

(3) the Complainant's procedural contention in terms of proof that it need only make a prima facie case is senseless in an uncontested case displaying compelling evidence on all factors related to the UDRP three-part cumulative case and thus this contention warrants no further consideration.

PRINCIPAL REASONS FOR THE DECISION

The Panel makes the following findings for the purposes of the UDRP's cumulative three-part test:

(1) The Complainant's rights have been fully established, and the Respondent's incorporation of the Complainant's trademark in the disputed domain name makes the disputed domain name confusingly similar to the Complainant's trademark.

Even without samples from the Complainant's wider domain names portfolio, the Panel infers that the inclusion in the disputed domain name stem of the additional term "team" does not alter such confusing similarity. Rather it pertains to a credible variation of the Complainant's domain name as relied upon in this proceeding. The Top-Level Domain name technical designator <.com> can, moreover, make no difference in this proceeding; it is the same designator as for the Complainant's domain name relied upon.

(2) The Respondent's details as set forth in the Case File itself are on their face sufficiently suspicious as to place any observer on inquiry. That the Complainant failed to bring to the Panel's attention this clear indication of impersonation in this case -- which is inimical to any right or legitimate interest on the Respondent's part -- does not and cannot preclude the Panel itself from

performing its own check under the Rules of the Respondent's details as part of the Panel's overall scrutiny of the Case File. The Panel finds an unambiguous lack of rights or a legitimate interest on the Respondent's part on this basis, but notes as well the absence of any authorization to the Respondent to use its trademark and of indication of any other factor that, in other circumstances than in this proceeding, a Respondent might invoke under the second part of the cumulative test.

(3) The disputed domain was registered and is being used in bad faith by reason of impersonation from the point of registration forward. As concerns the Complainant's contention that "the Respondent has not demonstrated any activity in respect of the disputed domain name", the Panel finds that the Complainant seems here to be arguing the Respondent's bad faith on grounds of there being no active use. Yet, use of a domain name's capability to support e-mail constitutes a use of the domain name and the Complainant has shown sufficient indication for the Panel to infer deliberate illegitimate use, or preparation for it, in this proceeding (MX activation with redirection to an unrelated domain name that nevertheless contains user details derived from the disputed domain name and which serve to impersonate the Complainant).

The Panel accordingly finds for the Complainant and orders the transfer of the disputed domain name to it.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **ARCELORMITTALTEAM.COM**: Transferred

PANELLISTS

Name	Kevin J. Madders
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DATE OF PANEL DECISION 2022-05-29

Publish the Decision