

Decision for dispute CAC-UDRP-104529

Case number	CAC-UDRP-104529
Time of filing	2022-04-27 09:38:25
Domain names	arcelormittalbuy.com, arcelormittal-inquiries.com, arcelormittal-purchase.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 which relate to the disputed domain names.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of International Trade Mark, registration, number 947686, for ACELORMITTAL, in multiple classes, registered on August 3, 2007.

FACTUAL BACKGROUND

The Complainant is a global producer of steel for use in automotive, construction, household appliances and packaging. The Complainant trades as “ArcelorMittal” and, in addition to its trade marks for ARCELORMITTAL, it owns domain names which comprise or include this term including <arcelormittal.com>.

The disputed domain name <arcelormittalbuy.com> was registered on April 19, 2022 and the disputed domain names <arcelormittal-inquiries.com> and <arcelormittal-purchase.com> were each registered on April 20, 2022. Each of the disputed domain names resolves to a parking page stating that it is parked free of charge with the Registrar.

The disputed domain names are confusingly similar to a trade mark in which the Complainant has rights in that each of them incorporates the Complainant’s ARCELORMITTAL mark in its entirety and adds a generic term, namely “buy”, “inquiries” or

“purchase” respectively. None of these added terms changes the overall impression of the disputed domain names as being connected with the Complainant’s mark.

The Respondent has no rights or legitimate interests in respect of the disputed domain names. In particular, the Respondent is not commonly known by any of them. Moreover, it is not related in any way to the Complainant, nor does the Complainant transact any business with it, nor has the Complainant granted any licence or authorisation to the Respondent to make any use of its ARCELORMITTAL mark. The fact that the disputed domain names resolve to parking pages confirms that the Respondent has no demonstrable plan to use them.

The Respondent has registered and is using the disputed domain names in bad faith. Given the distinctiveness of the Complainant’s trade mark and reputation, it is reasonable to infer that the Complainant has registered the disputed domain names with full knowledge of the Complainant’s trade marks. The Respondent has not demonstrated any activity in respect of the disputed domain names and it is not possible to conceive of any plausible or contemplated actual use of them which would not be an illegitimate, such as passing off or an infringement of the Complainant’s trade marks.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names are 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 names (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 names have been registered and are 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

Principal Reasons for the Decision

Paragraph 4(a) of the Policy requires that the Complainant prove each of the following three elements in order to succeed in its Complaint:

- (i) the disputed domain names are identical or confusingly similar to a trade mark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

Rights

The Panel finds that the disputed domain names are confusingly similar to the Complainant's ACCELOMITTAL trade mark. Where a complainant's mark is recognizable within a domain name, the addition of other terms, irrespective of their meaning, will not prevent a finding of confusing similarity; see CAC Case No. 102382, MAJE v enchong lin. The Complainant's mark is clearly visible within each of the disputed domain names and none of the added terms serves to distinguish them from the Complainant's mark.

Rights and legitimate interests

Paragraph 4(c) of the Policy sets out circumstances, without limitation, by which a respondent might demonstrate that it has rights or a legitimate interest in a domain name. These are, summarised briefly: (i) if the respondent has been using the domain name in connection with a bona fide offering of goods and services; (ii) if the respondent has been commonly known by the domain name; or (iii) if the respondent has been making a legitimate noncommercial or fair use of the domain name.

Use of the disputed domain names purely in order to resolve to a parking page, does not amount to use in connection with a bona fide offering of goods and services; see, by way of example, CAC Case No. 102314, SHOWROOMPRIVE.COM v Super Privacy Service LTD c/o Dynadot.

There is no evidence that the Respondent has been commonly known by the disputed domain names, nor does the Respondent's holding of them amount to making a legitimate noncommercial or fair use of them. Furthermore, as the disputed domain names, are confusingly similar to the Complainant's ACCELOMITTAL mark, they carry with them a risk of implied affiliation.

The Complainant having made out a prima facie case in relation to the second element, the burden of proof shifts to the Respondent to rebut it; see, for example, CAC Case No. 102333, Amedei S.r.l. v sun xin. In the absence of any response by it to the Complaint, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain names.

Bad faith

The only known use to which each of the disputed domain names have been put is to point to a parked page stating that it has been parked with the Registrar. The distinctive nature of the Complainant's mark is such that the Respondent must have been aware of it at the time of registration of the disputed domain names. The registration of the disputed domain names without the Complainant's consent, or other justifiable reason is, in these circumstances, in bad faith.

The fact that the disputed domain names are not presently in active use does not prevent a finding of bad faith under the doctrine of passive holding; see, for example, CAC Case No. Amedei S.r.l. v sun xin (supra). The factors that are typically considered when applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealment of its identity or its use of false contact details and (iv) the implausibility of any good faith use to which the domain name may be put. Applying the factors set out above to the current circumstances: (i) the Complainant has established that its ACCELOMITTAL trade mark is well-known and used in many countries; (ii) the Respondent has not replied to the Complaint; (iii) the Respondent has concealed its identity behind a privacy service; and (iv) there is no plausible good faith use to which any of the disputed domain names could be put by the Respondent. Accordingly, the circumstances support a finding of bad faith use of the disputed domain names under the doctrine of passive holding.

The Panel accordingly finds that the each of the disputed domain names has been registered and used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **ARCELOMITTALBUY.COM:** Transferred
- 2. **ARCELOMITTAL-INQUIRIES.COM:** Transferred
- 3. **ARCELOMITTAL-PURCHASE.COM:** Transferred

PANELLISTS

Name	Antony Gold
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DATE OF PANEL DECISION	2022-05-31
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Publish the Decision