

Decision for dispute CAC-UDRP-104540

Case number	CAC-UDRP-104540
Time of filing	2022-05-02 09:17:58
Domain names	arcelormittal-buyer.com

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
--------------	---------------------------------

Complainant

Organization	ARCELORMITTAL (SA)
--------------	--------------------

Complainant representative

Organization	NAMESHIELD S.A.S.
--------------	-------------------

Respondent

Organization	Fastloc 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 owns international trade mark registration No 947686 ARCELORMITTAL, first registered on 3 August 2007 in international classes 6, 7, 9, 12, 19, 21, 39, 40, 41, and 42. The Complainant's trade mark registration predates the registration of the disputed domain name. Furthermore, the Complainant owns a portfolio of domain names consisting of the name ARCELORMITTAL, including the domain <arcelormittal.com>, registered on 27 January 2006, which is connected to the official website of the Complainant.

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, with operations in more than 60 countries.

The Respondent registered the disputed domain name <arcelormittal-buyer.com> on 25 April 2022; it resolves to an inactive page. There is no evidence before the Panel that the disputed domain name has ever been used for an active website since it was registered. However, the Complainant has adduced evidence to suggest that MX servers appear to have been configured and that the disputed domain name may therefore be used for e-mail purposes.

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 trade mark 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

With regard to the first UDRP element, the Panel finds that the disputed domain name <arcelormittal-buyer.com> is confusingly similar to the Complainant's trade mark ARCELORMITTAL. Indeed, the disputed domain name incorporates the Complainant's trade mark in its entirety but adds the generic term "buyer" behind a hyphen. The Panel follows in this respect the view established by numerous other decisions that a domain name which wholly incorporates a Complainant's registered trade mark may be sufficient to establish confusing similarity for purposes of the UDRP (for example, WIPO Case No. D2003-0888, Dr. Ing. h.c. F. Porsche AG -v- Vasily Terkin <porsche-autoparts.com>). The Panel further considers it to be well established that the addition of a generic term, such as the term "buyer", does not allow a domain name to avoid confusing similarity with a trade mark (see, for example, WIPO Case No. D2019-2294, Qantas Airways Limited -v- Quality Ads <qantaslink.com>). The addition of this generic term is not sufficient to alter the overall impression of the designation as being connected with the Complainant's trade mark and does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trade marks and associated domain names. To the contrary, the disputed domain rather adds to the likelihood of confusion because it implies that it is linked to a dedicated website for buyers of the Complainant's products.

With regard to the second UDRP element, there is no evidence before the Panel to suggest that the Respondent has made any use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services. Neither is there any indication that the Respondent is making legitimate non-commercial or fair use of the disputed domain name. Indeed, the disputed domain name is not being used for any active website but resolves to an inactive page. A lack of content at the disputed domain has in itself been regarded by other panels as supporting a finding that the Respondent lacked a bona fide offering of goods or services and did not make legitimate non-commercial or fair use of the disputed domain name (see, for example, Forum Case No. FA 1773444, Ashley Furniture Industries, Inc v. Joannet Macket/JM Consultants). The Panel further finds that the Respondent is not affiliated with or related to the Complainant in any way and is neither licensed nor otherwise authorised to make any use of the Complainant's trade mark or to apply for or use the disputed domain name. In addition, the Whois information does not suggest that the Respondent is commonly known by the disputed domain name <arcelormittal-buyer.com>. Against this background, and absent any response from the Respondent, or any other information indicating the contrary, the Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

With regard to the third UDRP element, the Panel accepts that the Complainant's trade mark ARCELORMITTAL is a distinctive and well-known trade mark. Other Panels have confirmed the reputation of the Complainant's trade mark inter alia

in the following cases: CAC Case No 101908, ARCELORMITTAL -v- China Capital ("The Complainant has established that it has rights in the trademark "ArcelorMittal", at least since 2007. The Complainant's trademark was registered prior to the registration of the disputed domain name (February 7, 2018) and is widely well-known"); CAC Case No 101667, ARCELORMITTAL -v- Robert Rudd ("The Panel is convinced that the Trademark is highly distinctive and well-established"). Given the distinctiveness of the Complainant's trade mark and its reputation, it is reasonable to infer that the Respondent has registered and is using the disputed domain name with full knowledge of the Complainant's trade mark (see also WIPO Case No DCO2018-0005, ArcelorMittal SA -v- Tina Campbell ("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"). Furthermore, the Panel considers that, if the Respondent had carried out a Google search for the name ARCELORMITTAL, the search results would have yielded immediate and obvious references to the Complainant. The Panel concludes that it is difficult in those circumstances to believe that the Respondent was unaware of the Complainant's trade mark. It is therefore reasonable to infer that the Respondent either knew, or should have known, that the disputed domain name would be identical with or confusingly similar to the Complainant's trade mark and that he registered the disputed domain name in full knowledge of the Complainant's trade mark. Indeed, it is likely that the disputed domain would not have been registered if it were not for the Complainant's trade mark (see, for example, WIPO Case No D2004-0673, Ferrari Spa -v- American Entertainment Group Inc).

The Panel further notes that the website related to the disputed domain name is currently inactive. The Respondent has not demonstrated any activity in respect of the disputed domain name. First, it is difficult to conceive of any plausible actual or contemplated active use of the disputed domain name by the Respondent that would not be illegitimate on the grounds that it would constitute passing off, or an infringement of the Complainant's rights under trade mark law, under circumstances where that disputed domain name corresponds to the Complainant's trade mark and is similar to the Complainant's domain names currently used by the latter to promote its goods and services. Secondly, numerous other UDRP decisions have taken the view, which this Panel shares, that the passive holding of a domain name with knowledge that the domain name infringes another party's trade mark rights may in itself be regarded as evidence of bad faith registration and use (see, for example, WIPO Case No. D2000-0003, Telstra Corporation Limited v. Nuclear Marshmallows; and WIPO Case No. D2004-0615, Comerica Inc. v. Horoshiy, Inc.). Absent any response from the Respondent, or any information indicating the contrary, the Panel therefore also accepts that the Respondent has registered and is using the disputed domain name in bad faith. In the circumstances, the Panel therefore does not need to consider further whether there is a risk that the disputed domain name may be used to send fraudulent e-mails, as the Complainant suggests may be the case.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

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

PANELLISTS

Name	Gregor Kleinknecht
------	--------------------

DATE OF PANEL DECISION 2022-06-07

Publish the Decision
