

Decision for dispute CAC-UDRP-104601

Case number	CAC-UDRP-104601
Time of filing	2022-05-23 09:11:21
Domain names	allarcelormittal.com, arcelormittal-team.com, arcelormittalcenter.com, webarcelormittal.com

Case administrator

Organization	Denisa Bilík (CAC) (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

Organization	Fastloc Inc
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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 trademark n° 947686 ARCELORMITTAL registered on August 3rd, 2007.

FACTUAL BACKGROUND

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

The Complainant is the largest steel producing company in the world and is the owner of the international trademark n° 947686 ARCELORMITTAL registered on August 3rd, 2007. It also owns the domain name <arcelormittal.com>, registered since January 27th, 2006.

The disputed domain names were all registered on May 15th, 2022 and resolve to a parking page. MX servers are configured.

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

Paragraph 15(a) of the Rules instructs this Panel to "decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable."

Paragraph 4(a) of the Policy requires that a Complainant must prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

- (1) the domain name registered by the Respondent is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (2) the Respondent has no rights or legitimate interests in respect of the domain name; and
- (3) the domain name has been registered and is being used in bad faith.

In view of the Respondent's failure to submit a response, the Panel shall decide this administrative proceeding on the basis of the Complainant's undisputed representations pursuant to paragraphs 5(f), 14(a) and 15(a) of the Rules and draw such inferences it considers appropriate pursuant to paragraph 14(b) of the Rules. The Panel is entitled to accept all reasonable allegations set forth in a complaint; however, the Panel may deny relief where a complaint contains mere conclusory or unsubstantiated arguments. See WIPO Jurisprudential Overview 3.0 at paragraph 4.3.

As to the first element, the Panel finds that each of the disputed domain names is confusingly similar to the Complainant's very well-known trademark ARCELORMITTAL, since each incorporates the mark in its entirety. The addition of the generic terms "ALL", "TEAM", "CENTER" or "WEB" is not sufficient to distinguish between the disputed domain names and the mark. The inconsequential gTLD ".COM" may be ignored.

As to the second element, paragraph 4(c) of the Policy sets out three illustrative circumstances as examples which, if established by the Respondent, shall demonstrate rights to or legitimate interests in the disputed domain names for purposes of paragraph 4(a)(ii) of the Policy, i.e.

- (i) before any notice to the Respondent of the dispute, the use by the Respondent of, or demonstrable preparations to use, the domain names or a name corresponding to the domain names in connection with a bona fide offering of goods or services; or
- (ii) the Respondent (as an individual, business or other organization) has been commonly known by the domain names, even if the Respondent has acquired no trademark or service mark rights; or
- (iii) the Respondent is making a legitimate non-commercial or fair use of the domain names, without intent for commercial gain to misleadingly divert customers or to tarnish the trademark or service mark at issue.

The Complainant asserts that the Respondent is not known by the disputed domain names; has no rights or legitimate interests in respect of the domain names 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; and neither license nor authorization has been granted by the Complainant to the Respondent to make any use of the Complainant's trademark ARCELORMITTAL nor to apply for registration of the disputed domain names.

Each of the disputed domain names was registered on May 15th, 2022, many years after the Complainant has shown that its ARCELORMITTAL mark had become very well-known. They all resolve to a parking page. MX servers are configured.

These circumstances, together with the Complainant's assertions, are sufficient to constitute a prima facie showing of absence of rights or legitimate interests in respect of the disputed domain names on the part of the Respondent. The evidentiary burden therefore shifts to the Respondent to show that it does have rights or legitimate interests in the disputed domain names. See *JUUL Labs, Inc. v. Dryx Emerson / KMF Events LTD*, FA1906001849706 (Forum July 17, 2019). The Respondent has made no attempt to do so.

The Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain names.

As to the third element, given the distinctiveness and reputation of the Complainant's trademark, the Panel infers that the Respondent registered the disputed domain names in bad faith with full knowledge of the Complainant's trademark. See 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.").

Further, although the disputed domain names resolve to a parking page and the Respondent has not demonstrated any activity in respect of them, the Panel considers it is not possible to conceive of any plausible actual or contemplated active use of them by the Respondent that would not be illegitimate, such as passing off, infringement of consumer protection legislation, or infringement of the Complainant's rights under trademark law. See WIPO Case No. D2000-0003, *Telstra Corporation Limited v. Nuclear Marshmallows*.

The fact that MX servers are configured suggests that the disputed domain names may be actively used for fraudulent email purposes. See CAC Case No. 102827, *JCDECAUX SA v. Handi Hariyono* ("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.").

Accordingly, the Panel concludes that the Respondent has registered the disputed domain names and is using them in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ALLARCELORMITTAL.COM**: Transferred
2. **ARCELORMITTAL-TEAM.COM**: Transferred
3. **ARCELORMITTALCENTER.COM**: Transferred
4. **WEBARCELORMITTAL.COM**: Transferred

PANELLISTS

Name **Mr. Alan Lawrence Limbury**

DATE OF PANEL DECISION 2022-06-16

Publish the Decision

