

## Decision for dispute CAC-UDRP-104715

Case number CAC-UDRP-104715

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Time of filing 2022-07-11 09:50:36

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Domain names arcalormittel.com

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### 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 arcalormittel

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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 name.

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#### IDENTIFICATION OF RIGHTS

The Complainant is the owner of the following registered trademark in respect of the mark ARCELORMITTAL:

International Registered Trademark no. 947686 for the word mark ARCELORMITTAL, registered on August 3, 2007 in Classes 6, 7, 9, 12, 19, 21, 39, 40, 41 and 42, and designated in respect of 45 territories.

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#### FACTUAL BACKGROUND

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

The Complainant is a global company specialized in steel production. It 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 69.1 million tonnes of crude steel made in 2021. It holds sizeable captive supplies of raw materials and operates extensive distribution networks.

The Complainant is the owner of International Registered Trademark no. 947686 in respect of the word mark

ARCELORMITTAL, registered on August 3, 2007, and also owns an important domain name portfolio, such as the domain name <arcelormittal.com> registered since January 27, 2006.

The disputed domain name was registered on June 14, 2022 and resolves to a parking page with commercial links.

#### Identical or confusingly similar

The reversal of the letters “E” and “A” in the Complainant’s trademark is characteristic of a typosquatting practice intended to create confusing similarity between the Complainant’s trademark and the disputed domain name. Previous panels have found that slight spelling variations do not prevent a domain name from being confusingly similar to the Complainant’s trademark. The addition of the gTLD “.com” in the disputed domain name does not change the overall impression of connection to the Complainant’s trademark or prevent a likelihood of confusion between the disputed domain name and the Complainant, its trademark and its associated domain names.

#### Rights or legitimate interests

The Respondent has no rights or legitimate interests in respect of the disputed domain name 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. Neither license nor authorization has been granted by the Complainant to the Respondent to make any use of the Complainant’s trademark or to apply for registration of the disputed domain name.

The Complainant claims that the disputed domain name is a typosquatted version of its ARCELORMITTAL trademark. Typosquatting is the practice of registering a domain name in an attempt to take advantage of Internet users’ typographical errors and can evidence that a respondent lacks rights and legitimate interests in the domain name.

The disputed domain name resolves to a parking page with commercial links. Past panels have found that this is not a bona fide offering of goods or services or legitimate noncommercial or fair use.

#### Registered and used in bad faith

The Complainant contends that the disputed domain name is confusingly similar to its distinctive ARCELORMITTAL trademark. Past panels have confirmed the notoriety of this trademark in a variety of cases. Given such distinctiveness, it is reasonable to infer that the Respondent registered the disputed domain name in the full knowledge of the Complainant’s trademark. The Complainant asserts that the misspelling of the Complainant’s trademark was intentionally designed to be confusingly similar thereto. Previous UDRP panels have seen such actions as evidence of bad faith.

The disputed domain name resolves to a parking page with commercial links. The Complainant contends that the Respondent has attempted to attract Internet users for commercial gain to its own website thanks to the Complainant’s trademark for its own commercial gain, which is evidence of bad faith.

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#### PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

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#### 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).

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#### 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).

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#### 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).

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#### 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.

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#### PRINCIPAL REASONS FOR THE DECISION

The second level of the disputed domain name constitutes a typographical variant of the Complainant's ARCELORMITTAL trademark, in which the only difference on an alphanumeric comparison is the swapping of the letter "e" and the second letter "a". Notwithstanding this letter swap, the Complainant's mark is still entirely recognizable as the second level of the disputed domain name. There is, furthermore, a distinct phonetic similarity between the mark and the disputed domain name when the two are pronounced. In these circumstances, it may be seen that the disputed domain name contains an obvious misspelling of the Complainant's mark. The generic Top-Level Domain, in this case ".com", is typically disregarded for the purposes of the comparison exercise. In these circumstances, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark.

The Panel finds that the Complainant has made out a prima facie case that the Respondent does not have rights or legitimate interests in the disputed domain name. The Complainant asserts that it has no business with or connection to the Respondent, and that it has granted no licence or authorisation to the Respondent to use its trademark or apply for registration of the disputed domain name. Furthermore, the Complainant points out that the disputed domain name is a typosquatted version of its ARCELORMITTAL trademark. In other words, the disputed domain name has been registered to take advantage of Internet users' typographical errors in typing the Complainant's mark. The Complainant adds that the disputed domain name resolves to a parking page with commercial links.

The Panel accepts the Complainant's above-noted description of typosquatting. As the Complainant asserts, this can be evidence that a respondent lacks rights and legitimate interests in a domain name. In this particular case, the exchanging of two letters in what is otherwise the Complainant's trademark (alphanumerically speaking) renders it beyond doubt in the Panel's mind that the disputed domain name constitutes typosquatting due in particular to the distinctive nature of the Complainant's mark and the fact that this remains recognizable in the disputed domain name, while the disputed domain name itself is very likely to be mistyped by Internet users seeking the Complainant's official website. These circumstances suggest to the Panel that the Respondent is seeking to capitalize deliberately on a predictable pattern of mistyping of the Complainant's mark by such users.

The fact that the disputed domain name has been used in connection with pay per click advertising is also suggestive of a lack of rights and legitimate interests in the disputed domain name in this particular case. Taking all of the evidence together, the Panel considers that the disputed domain name appears to rely upon the notoriety of the Complainant and its trademark, in order to maximise Internet traffic to the Respondent's website, with the intention of increasing the number of paid click-throughs on the associated advertising. The Panel accepts the Complainant's assertion that such use is neither a bona fide offering of goods or services nor a legitimate noncommercial or fair use within the meaning of the Policy. Indeed, such use of the disputed domain name cannot confer any rights or legitimate interests upon the Respondent in the Panel's opinion.

The Respondent has failed to file a Response in this case and has not set out any alleged rights or legitimate interests which it might have claimed in the disputed domain name. There are no submissions or evidence on the record which might serve to rebut the Complainant's prima facie case. Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

The Panel finds that the disputed domain name has been registered and is being used in bad faith. The registration of the Complainant's ARCELORMITTAL trademark pre-dates the registration of the disputed domain name by a considerable period. It has been noted in previous cases under the Policy that the Complainant's trademark benefits from significant

repute and a distinctive character (see, for example, ARCELORMITTAL v. Robert Rudd, CAC Case No. 101667, in which the panel noted that the Complainant's mark is well-established and highly distinctive). Given that the disputed domain name evidently represents a deliberately-chosen typographical variant of such mark, it is entirely reasonable to infer that the disputed domain name was registered by the Respondent with the Complainant and its trademark in mind.

In general terms, the disputed domain name promotes confusion by its close similarity in appearance to, and as a typographical variant of, the Complainant's mark. Given that the Respondent's associated website features pay per click links, albeit not necessarily keyed to the Complainant's line of business, the Panel considers that it is also probable that the Respondent is using such typographical variant domain name in order to maximize the traffic to such website and the corresponding advertising impressions, such that this would, in turn, maximize the Respondent's click-through revenue. In all of these circumstances, the Panel considers that a finding of registration and use in bad faith is warranted. In terms of paragraph 4(b)(iv) of the Policy, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to source, sponsorship, affiliation, or endorsement of its website.

The Respondent has not replied to the Complainant's allegations of bad faith registration and use, nor has it advanced any explanation suggesting that its actions regarding the disputed domain name were in good faith. The Panel has not been able to identify any conceivable good faith explanation which the Respondent might have tendered in this case which would have avoided the present finding of registration and use in bad faith in accordance with the Policy.

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FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

**Accepted**

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

1. **ARCALORMITTEL.COM**: Transferred
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## **PANELLISTS**

Name	<b>Andrew Lothian</b>
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DATE OF PANEL DECISION **2022-08-04**

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Publish the Decision

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