

Decision for dispute CAC-UDRP-104705

Case number	CAC-UDRP-104705
Time of filing	2022-07-08 09:13:57
Domain names	arcelormittal-limited.com, arcelormittal-limited.net

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

International Trade Mark No. 947686 ARCELORMITTAL registered on 3 August 2007 for metal, raw materials and other goods and services in classes 6, 7, 9, 12, 19, 21, 39, 40, 41 and 42.

FACTUAL BACKGROUND

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

The Complainant trades under the trademark "ArcelorMittal". It is the largest steel producing company in the world, manufacturing in 16 countries and providing steel to customers in 155 countries. It employs approximately 168,000 globally.

The Complainant is the owner of the above-mentioned international trade mark registration and numerous domain names containing or consisting of "arcelormittal" such as <arcelormittal.com> registered since 27 January 2006.

The disputed domain names were both registered on 28 June 2022 in the name of "Wilson chill" of "Fastloc Inc" with an address listed in the United Kingdom.

At the time of the Complaint neither of the disputed domain names resolved to an active website.

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 (4)(a) of the Policy lists three elements that the Complainant must prove to merit a finding that the disputed domain names registered by the Respondent be transferred to the Complainant:

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

The Panel is satisfied that the Complainant has satisfied all three elements for the principal reasons set out below.

RIGHTS IN AN IDENTICAL OR CONFUSINGLY SIMILAR TRADEMARK

As mentioned above the Complainant asserts it has an international trademark registration consisting of the words ARCELORMITTAL. This registration predates the registration date of the disputed domain names by over a decade.

To satisfy paragraph 4(a)(i) of the Policy it is enough that the Panel is satisfied that the Complainant has registered rights in a trademark that predates the registration of the disputed domain names in a single jurisdiction (even if that single jurisdiction is not one in which the Respondent resides or operates) (Koninklijke KPN N.V. v. Telepathy, Inc D2001-0217 (WIPO 7 May 2001); see also WIPO Case Nos. D2012-0141 and D2011-1436). The Complainant has clearly satisfied such in relation to the trademark ARCELORMITTAL.

The next question is whether the disputed domain names are confusingly similar to the ARCELORMITTAL trademark.

The Panel disregards the gTLD suffixs ".com" and ".net" for the purpose of this comparison. They are of no brand significance and likely to be totally ignored by web users. Such web users are likely to focus entirely on the only distinctive element in the disputed domain names, being the ARCELORMITTAL-LIMITED element.

In observing this element, the suffix "-LIMITED" will also be likely ignored by web-users. It is well known that the word "Limited" appearing as a suffix after a business name indicates a type of incorporated body in many jurisdictions. Hence the similarities between the ARCELORMITTAL trademark and the disputed domain names are striking.

The disputed domain names are therefore confusingly similar to the ARCELORMITTAL trademark.

NO RIGHTS OR LEGITIMATE INTERESTS

The Respondent's name bears no resemblance to "ARCELORMITTAL-LIMITED". Further, the disputed domain names do not resolve to any website indicating any right or legitimate interest in the disputed domain names.

The Respondent has no rights or interests in the disputed domain names.

BAD FAITH

Neither of the disputed domain names resolve to an active website.

Failing to redirect a domain name to an active website or merely directing the domain name to a basic parking page that contains links to other websites can be legitimate conduct. It is commonly referred to as 'passive holding'. Whilst it is true that the passive holding of a domain name may, in appropriate circumstances, be indicative of bad faith. It will only be so indicative when all the circumstances of the Respondent's behaviour indicate he or she is acting in bad faith (Telstra Corporation Ltd v. Nuclear Marshmallows D2000-0003 (WIPO 18 February 2000)). There is no law or rule that a domain name cannot be parked or that it must be used to redirect to an active website within a specific period of time.

In the present proceeding the fact that the disputed domain names do not redirect to an active website adds nothing to an allegation of bad faith. If anything, it simply shows the Complainant has not yet decided to direct the disputed domain names to any active website. This passive action is of no concern to the Panel whatsoever. The disputed domain names were only registered approximately one month before the ADR proceeding was commenced by the Complainant.

In the Panel's view one ought not be harshly judging a registrant's mere passive holding of a domain name over such a short period of time. It is prudent to consider what a reasonably minded bona fide registrant may intend by the same behaviour. And it is entirely possible that such a hypothetical person may first register a domain name they wish to use and then take weeks or even months to develop a web page for which they wish to use it. It is equally possible that such a hypothetical person may use the domain name for an e-mail service only. These legitimate foreseeable possibilities must be considered when determining if an allegation of passive holding amounts to, or contributes to, a finding of bad faith.

However, what is of great concern to the Panel in this present proceeding is that ARCELORMITTAL is a well-known trade mark.

It is entirely unforeseeable that a reasonable person residing in the United Kingdom could register the strikingly similar disputed domain names without knowledge of the Complainant's rights.

The Panel finds that the Respondent had such prior knowledge at the time of registering the disputed domain names and therefore its only purpose in registering the disputed domain names was to opportunistically profit from confusing similarity. The Respondent clearly targeted the Complainant's well-known domain name for this purpose.

Therefore, in consideration of all the circumstances the disputed domain names have been registered and are being 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. **ARCELORMITTAL-LIMITED.COM**: Transferred
2. **ARCELORMITTAL-LIMITED.NET**: Transferred

PANELLISTS

Name	Mr Andrew Norman Sykes
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DATE OF PANEL DECISION	2022-08-10
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Publish the Decision
