

Decision for dispute CAC-UDRP-104853

Case number CAC-UDRP-104853

Time of filing 2022-09-20 09:58:42

Domain names arcelomitaloficial.com

Case administrator

Organization Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization ARCELORMITTAL (SA)

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Name IZAIAS AMARAL DA CRUZ COSTA

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

Arcelormittal S.A. (the Complainant) is the owner of the international trademark (Reg. No. 947686) ARCELORMITTAL, registered on August 3, 2007 (Nice classes 6, 12, 21, 40), valid until August 3, 2027.

FACTUAL BACKGROUND

Arcelormittal S.A. (the "Complainant") is the owner of the international trademark (Reg. No. 947686) ARCELORMITTAL, registered on August 3, 2007 (Nice classes 6, 12, 21, 40) and it significantly predates the registration of the disputed domain name (August 17, 2022). 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 69.1 million tonnes crude steel made in 2021.

Previous UDRP panels have acknowledged that ARCELORMITTAL trademark is well-known (e.g. 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.").

The Complainant owns domain name composed of its trademark, namely <arcelormittal.com> (registered since January 27, 2006).

The disputed domain name <arcelomitaloficial.com> was registered on August 17, 2022 by the Brazilian resident Izaias Amaral Da Cruz Costa. This domain name incorporates two typos of the Complainant's well-known, distinctive trademark ARCELORMITTAL by merely omitting the letters "r" and "t", which is visually and phonetically confusingly similar to the Complainant's trademark ARCELORMITTAL.

The Respondent did not make any use of disputed domain name since its registration (the website is inactive), and it confirms that Respondent has no demonstrable plan to use the disputed domain name. It demonstrates a lack of legitimate interests in respect of the disputed domain name. The Respondent is not sponsored by or affiliated with Complainant in any way. Complainant has not licensed, authorized, or permitted Respondent to use Complainant's trademarks in any manner, including in domain names.

Given the distinctiveness of the Complainant's trademark and reputation, it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's trademark (e.g. 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.").

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 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 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

1. The Panel agrees with the Complainant that the disputed domain name is confusingly similar to the Complainant's trademark ARCELORMITTAL. Considering the renown of the Complainant and its trademark ARCELORMITTAL, it becomes evident that two typos of the Complainant's well-known, distinctive trademark ARCELORMITTAL by merely omitting the letters "r" and "t" (ARCELO[r]MIT[t]AL), does not set aside the confusing similarity between the disputed domain name and the Complainant's trademark. The adding of the generic Portuguese (or Spanish) word "oficial" (i.e. „official“) does not change the fact that the disputed domain name and the registered trademark are confusingly similar, as it does not change the overall impression of the designation as being connected to the Complainant's trademark and it does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and domain name associated.

2. The Panel acknowledges that the Complainant presented prima facie evidence that the Respondent is not sponsored by or affiliated with Complainant in any way. Furthermore, Complainant has not licensed, authorized, or permitted Respondent to use Complainant's trademarks in any manner, including in domain names. The Respondent's name (Izaias Amaral Da Cruz Costa) does not resemble the disputed domain name in any manner. Respondent's use of the disputed domain names does not constitute a bona fide offering of goods or services or a legitimate non-commercial or fair use.
3. As no administratively compliant response has been provided to the Panel and the prima facie evidence was not challenged by the Respondent, the Panel concludes that the Respondent meant Complainant's trademark ARCELORMITTAL when he/she registered the disputed domain name <arcelomitaloficial.com> (see WIPO Overview 3.0, para. 3.1.1). Previous UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. Accordingly, the Panel finds that the disputed domain name was registered in bad faith.
4. The Respondent has not demonstrated any activity in respect of the disputed domain name, and it is not possible to conceive of any plausible actual or contemplated active use of the domain name by the Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant's rights under trademark law. As prior WIPO UDRP panels have held, the incorporation of a famous mark into a domain name, coupled with an inactive website, may be also evidence of bad faith registration and use.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **arcelomitaloficial.com**: Transferred

PANELLISTS

Name	Darius Sauliūnas
------	-------------------------

DATE OF PANEL DECISION 2022-10-26

Publish the Decision
