Decision for dispute CAC-UDRP-102903

Case number	CAC-UDRP-102903
Time of filing	2020-02-05 09:54:37
Domain names	mexicomittal.com

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	ARCELORMITTAL (SA)

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Name	Elcarale Garcia

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings that are pending or decided and that relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant - ARCELOR MITTAL S.A. - relies on international verbal trademark <MITTAL> no 1198046 registered amongst others for goods in classes 6 (application date: December 5, 2013) and whose protection extends amongst others to Mexico.

FACTUAL BACKGROUND

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

1. The Complainant is the largest steel producing company in the world and the market leader in steel for use in automotive, construction, household appliances and packaging with operations in more than 60 countries.

2. It results from the registrar verification that the date of registration of the disputed domain name by the Respondent was Febranuary 29, 2020.

3. According to the undisputed evidence provided by the Complainant, the disputed domain name resolves to a parking

website displaying sponsored links.

4. Finally, the Complainant states that it does not carry out any activity for, nor has any business with the Respondent. Furthermore, the Complainant did not grant any license or authorization to the Respondent to make any use of the Complainant's trademark, or apply for registration of the disputed domain name.FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

1. The Complainant is the largest steel producing company in the world and the market leader in steel for use in automotive, construction, household appliances and packaging with operations in more than 60 countries.

2. It results from the registrar verification that the date of registration of the disputed domain name by the Respondent was Febranuary 29, 2020.

3. According to the undisputed evidence provided by the Complainant, the disputed domain name resolves to a parking website displaying sponsored links.

4. Finally, the Complainant states that it does not carry out any activity for, nor has any business with the Respondent. Furthermore, the Complainant did not grant any license or authorization to the Respondent to make any use of the Complainant's trademark, or apply for registration of the disputed domain name.

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 finds that the disputed domain name is confusingly similar to the Complainant's trademark.

Many Panels have found that a disputed domain name is confusingly similar to a complainant's trademark where it incorporates the complainant's trademark in its entirety. In the case at hand, the Complainant's registered trademark <MITTAL> is fully included in the disputed domain name. It is true that the disputed domain name <MEXICOMITTALL.COM> contains the additional term <MEXICO>. However, it is the view of this Panel that the combination of the trademark <MITTAL> with the geographic term <MEXICO> does not avoid confusing similarity between the disputed domain name and the Complainant's trademark. The term <MEXICO> will be understood as mere geographic indication (see Jcdecaux SA v. Whois Privacy Protection Foundation / Anderson Paul, WIPO Case No. D2019-1143; LEGO Juris A/S v. Kamran Khan, WIPO

Case No. D2019-0013; BeSweet Creations LLC v. Ahmed Aludayni, WIPO Case No. D2019-0306).

2.
In the absence of any Response, or any other information from the Respondent indicating the contrary, the Panel further holds that the Complainant successfully presented its prima facie case and that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

In particular, the Respondent is not affiliated with nor authorized by the Complainant in any way, and it is not related in any way to the Complainant's business. In addition, the Respondent is not commonly known by the disputed domain name pursuant to paragraph 4(c)(ii) of the Policy.

Furthermore, it results from the evidence provided by the Complainant that the disputed domain name is connected to a website displaying sponsored links. Such use can neither be considered a bona fide offering of goods or services nor a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark at issue in the sense of paragraph 4(c)(i) and (iii) of the Policy. In fact, this Panel shares the view of previous panels holding that use of a domain name to host a parked page comprising PPC links does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users (see section 2.9 of the WIPO Overview 3.0).

3.
Finally, the Panel finds that the disputed domain name has been registered and is being used in bad faith.

It is the view of this Panel that the Respondent uses the disputed domain name to intentionally attempt to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location (see paragraph 4(b)(iv) of the Policy).

In the Panel's view, the Respondent has intentionally registered the disputed domain name which reproduces the Complainant's trademark identically. By the time the disputed domain name was registered, it is unlikely that the Respondent did not have knowledge of the Complainant's trademark. The Complainant also proved that the Respondent used the disputed domain name to lead to a parking page, with sponsored links. These facts, confirm that the disputed domain name is used to intentionally attempt to attract, for commercial gain, Internet users to the Respondent's website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website.

Finally, the further circumstances surrounding the disputed domain name's registration and use confirm the findings that the Respondent has registered and is using it in bad faith: (1) The Respondent originally used a privacy service hiding its identity; (2) The clear absence of rights or legitimate interests coupled with no response to Complaint with conceivable or credible explanations of the Respondent's conduct; (3) The implausibility of any good faith use to which the disputed domain name may be put.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **MEXICOMITTAL.COM**: Transferred

PANELLISTS

Name	**Dr. Tobias Malte Müller**

DATE OF PANEL DECISION 2020-03-18