

Decision for dispute CAC-UDRP-104949

Case number CAC-UDRP-104949

Time of filing 2022-10-27 09:13:37

Domain names arcelormisttal.com

Case administrator

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

Complainant

Organization ARCELORMITTAL (SA)

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Organization ArcelorMittal Construction Ilc

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

The Complainant is the owner of the international trademark n° 947686 ARCELORMITTAL® registered on August 3, 2007.

The Complainant also owns domain name <arcelormittal.com> registered since January 27, 2006.

The disputed domain name <arcelormisttal.com> was registered on October 20, 2022.

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 market leader in steel for use in automotive, construction, household appliances and packaging with 69.1 million tons crude steel made in 2021. It holds sizeable captive supplies of raw materials and operates extensive distribution networks.

The Complainant is the owner of the international trademark ARCELORMITTAL registered on August 3, 2007 and owner of the domain name <arcelormittal.com> registered since January 27, 2006. The disputed domain name <arcelormisttal.com> was registered on October 20, 2022 and resolves to a parking page with commercial links.

The Complainant states that the disputed domain name is confusingly similar to its trademark ARCELORMITTAL and its domain names associated, as it includes the Complainant's trademark in its entirety. The obvious misspelling of the Complainant's trademark ARCELORMITTAL, i.e. the addition of the letter "S", 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 the slight spelling variations does not prevent a domain name from being confusing similar to the Complainant's trademark.

Furthermore, the Complainant contends that the addition of the gTLD ".COM" does not change the overall impression of the designation as being connected to the Complainant's trademark. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and its domain names associated. Indeed, as reminded in the WIPO Overview 3.0, the applicable Top Level Domain in a domain name is viewed as a standard registration requirement and as such is disregarded under the first element confusion similarity test.

The Complainant states that the Respondent has no rights or legitimate interests in respect of the domain name. The Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a) (ii) of the Policy.

The Respondent is identified in the Whois database as "ArcelorMittal Construction LLC", which is a subsidiary of the Complainant. However, the email address is not controlled by the Complainant or its entity in any way. The Complainant asserts that the Respondent choose to register the domain name under the name "ArcelorMittal Construction LLC" to worsen the likelihood of confusion with the Complainant.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name and he 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 to the Respondent to make any use of the Complainant's trademark, or apply for registration of the disputed domain name by the Complainant.

Besides, the Complainant also claims that the disputed domain name is a typosquatted version of the trademark ARCELORMITTAL. 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.

Furthermore, the disputed domain name resolves to a parking page with commercial links. Past panels have found it is not a bona fide offering of goods or services or legitimate non-commercial or fair use.

The Complainant finally contends that the disputed domain name was registered and is being used in bad faith. The disputed domain name is confusingly similar to its distinctive trademark ARCELORMITTAL which is widely known. Past panels have confirmed the notoriety of the trademark ARCELORMITTAL in the following cases: CAC Case No. 101908, ARCELORMITTAL v. China Capital and CAC Case No. 101667, ARCELORMITTAL v. Robert Rudd.

Given the distinctiveness of the Complainant's trademark and reputation, it is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademark. Moreover, the Complainant states the misspelling of the trademark ARCELORMITTAL was intentionally designed to be confusingly similar with the Complainant's trademark. Previous UDRP Panels have seen such actions as evidence of bad faith.

Furthermore, the disputed domain name resolves to a parking page with commercial links. The Complainant contends the Respondent has attempt to attract Internet users for commercial gain to his own website thanks to the Complainant's trademarks for its own commercial gain, which is evidence of bad faith.

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).

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

For the Complainant to succeed it must prove, within the meaning of paragraph 4(a) of the Policy, that:

- (i) The domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (ii) The respondent has no rights or legitimate interests in respect of the domain name; and
- (iii) The domain name has been registered and is being used in bad faith.

I. Identical or Confusingly Similar

1. The Complainant has established the fact that it has valid rights for the international trademark n° 947686 ARCELORMITTAL registered on August 3, 2007, and that it owns domain name including the same distinctive wording ARCELLORMITTAL. The disputed domain name has been registered on October 20, 2022, i.e. almost 15 years after the ARCELORMITTAL trademark registration, and wholly incorporates the Complainant's trademark ARCELORMITTAL. The addition of the letter "S" does not prevent a domain name from being confusing similar to the Complainant's trademark.
2. The addition of the generic top level domain ".COM" does not change the overall impression of the designation as being connected to Complainant's trademark.
3. The Panel therefore considers the disputed domain name to be confusingly similar to the Complainant's trademark ARCELORMITTAL which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

II. Rights or Legitimate Interests

1. The Complainant has established a prima facie case (not challenged by the Respondent who did not file any response to the complaint) that the Respondent has no rights or legitimate interests in the disputed domain name. Although the name of the Respondent is "ArcelorMittal Construction LLC", the Complainant stated that the Respondent choose to register the domain name under the name of the Complainant's subsidiary to worsen the likelihood of confusion with the Complainant and the real Respondent is therefore not related in any way with the Complainant.
2. The disputed domain name resolves to a parking page with commercial links and this does not constitute a bona fide offering of goods and services or a legitimate noncommercial fair use. It has not been proved by the Respondent that he has rights or legitimate interests in the disputed domain name or the Respondent is related with the Complainant. Neither license nor authorization has been proven to be granted to the Respondent to make any use of the Complainant's trademark, or apply for registration of the disputed domain name.
3. The Panel therefore considers that the Respondent has no rights or legitimate interests in respect of the disputed domain name within the meaning of paragraph 4(a)(ii) of the Policy.

III. Registered and Used in Bad Faith

1. Given the distinctiveness of the Complainant's trademark and reputation (as confirmed in several UDRP proceedings in the past - CAC Case No. 101908, ARCELORMITTAL v. China Capital; CAC Case No. 101667, ARCELORMITTAL v. Robert Rudd) it is evident that the Respondent had the Complainant and its trademark in mind when registering the disputed domain name. The Panel considers the misspelling of the trademark ARCELORMITTAL (adding of the letter "S") as the evidence of bad faith registration and use.
2. Furthermore, the website in connection with the disputed domain name resolves to a parking page with commercial links. The incorporation of a famous trademark into a domain name, coupled with an "parking page" website, may be evidence of bad faith registration and use as well.
3. The Panel therefore considers that 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.

The Panel finally considers that the Complainant has shown that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights, the Respondent has no rights or legitimate interests in respect of the disputed domain name and the disputed domain name has been registered and is being used in bad faith. The Complainant has thus established all three elements of paragraph 4(a) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **arcelormisttal.com**: Transferred

PANELLISTS

Name	Petr Hostaš
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DATE OF PANEL DECISION **2022-12-13**

Publish the Decision
