

Decision for dispute CAC-UDRP-105044

Case number	CAC-UDRP-105044
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Time of filing	2022-12-06 09:24:51
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Domain names	arceiornittai.com
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Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (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

Name	Ashghal Qatar
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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.

IDENTIFICATION OF RIGHTS

Complainant is the owner of the international trademark ARCELORMITTAL n°947686 registered on August 3, 2007, duly renewed and covering goods and services in classes 6, 7, 9, 12, 19, 21, 39, 40, 41 and 42.

In addition, Complainant notably owns the domain name <arcelormittal.com> registered since January 27, 2006.

FACTUAL BACKGROUND

Complainant is one of the world's leading integrated steel and mining companies.

Complainant has steel-making operations in 16 countries on four continents, including 37 integrated and mini-mill steel-making facilities. As of December 31, 2021, Complainant had approximately 158,000 employees.

In Europe, ArcelorMittal Europe employs 60,525 people, working in 400 locations and has steel-making operations in 9 countries.

Complainant owns the international trademark ARCELORMITTAL n°947686 registered on August 3, 2007, duly renewed, which designates goods and services in classes 6, 7, 9, 12, 19, 21, 39, 40, 41 and 42.

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

The disputed domain name <arceiornittai.com> was registered by Respondent on November 28, 2022.

PARTIES CONTENTIONS

COMPLAINANT:

First, Complainant argues that the disputed domain name is confusingly similar to its trademark ARCELORMITTAL, as it includes Complainant's trademark in its entirety.

Complainant asserts that the misspelling of the trademark ARCELORMITTAL, with the substitution of the letter "L" by the letter "I" twice and the letter "M" by the letter "N", is characteristic of typosquatting intended to create confusing similarity between Complainant's trademark and the disputed domain name.

Complainant adds that the addition of the gTLD <.com> does not change the overall impression of confusing similarity.

Complainant further asserts that Respondent has no rights or legitimate interests in the disputed domain name. Indeed, Complainant states that it has not granted any license nor authorization to Respondent to register the disputed domain name and that there has been no relationship of any kind between Complainant and Respondent.

Complainant argues that Respondent is not known by the disputed domain name.

Furthermore, Complainant states that the disputed domain name resolves to an inactive page and most of all, that it has been used in a phishing scheme. Complainant claims that Respondent uses the disputed domain name to pass off as one of the Complainant's employees.

Complainant also claims the well-known character of its trademark, referring to earlier UDRP decisions in which the Panel noted the well-known nature of the Complainant's trademark "ARCELORMITTAL" (*ARCELORMITTAL v. China Capital, CAC Case No. 101908*; *ARCELORMITTAL v. Robert Rudd, CAC Case No. 101667*).

Finally, Complainant deems that Respondent registered and uses the disputed domain name in bad faith. Complainant argues that Respondent could not have ignored Complainant's trademark at the time of registration of the disputed domain name and that it was specifically registered because of the reputation of its trademark, in order to create confusing similarity among Internet users. Furthermore, Complainant raises that Respondent uses the disputed domain name for phishing activities.

RESPONDENT:

No administratively compliant Response has been filed.

RIGHTS

Complainant has submitted evidence proving its rights in the ARCELORMITTAL trademark. It would have been better for the Complainant to specify in which jurisdictions the international trademark is registered. Nonetheless, according to the data provided in one of the annexes, the Panel notes that said trademark is protected in several jurisdictions such as Norway, Turkey, Singapore and in the United States where Respondent is located.

Complainant and its ARCELORMITTAL trademark enjoy a worldwide reputation, as acknowledged by previous Panels (see for instance *ARCELORMITTAL v. China Capital, CAC Case No. 101908*, *ARCELORMITTAL v. Robert Rudd, CAC Case No. 101667*).

In addition, Complainant operates the following domain name reflecting its trademark in order to promote its goods and services: <arcelormittal.com> registered on January 27, 2006.

Complainant's trademark ARCELORMITTAL, despite the intentional alteration of the letters "L" and "M", is recognizable in the disputed domain name. This alteration in the disputed domain name constitutes characterize typosquatting.

Moreover, the gTLD ".com" is not to be taken into consideration when examining the identity or similarity between Complainant's trademark and the disputed domain name, as it is viewed as a standard registration requirement.

Therefore, 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

Under Policy paragraph 4(a)(ii), Complainant must make out a prima facie case showing that Respondent lacks rights and legitimate

interests in respect of the disputed domain name and then the burden of proof shifts to Respondent to come forward with evidence of rights or legitimate interests. If Respondent fails to do so, Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy. In the present case, Respondent did not submit any argument in response to the complaint.

Complainant states that Respondent is neither affiliated with Complainant in any way nor has he been authorized by Complainant to use its registered trademark, or to seek registration of any domain name incorporating said trademark.

Furthermore, Respondent cannot claim prior rights or legitimate interest in the disputed domain name as the registered trademark precedes the registration of the disputed domain name for years.

Moreover, there is no evidence that Respondent has become commonly known by the name <arceiornittai.com>. As the disputed domain name in dispute is confusingly similar to Complainant's well-known registered trademark, Respondent cannot reasonably pretend he was intending to develop a legitimate activity through the disputed domain name.

Finally, there is no evidence that Respondent, before any notice of this dispute, was using or had made demonstrable preparations to use the disputed domain name or a name corresponding to the disputed domain name in connection with a bona fide offering of goods or services, in accordance with paragraph 4(c)(i) of the Policy.

The disputed domain name, which imitates Complainant's trademark, resolves to an inactive webpage. Therefore, no bona fide offering of goods or services has been developed with the disputed domain name.

Moreover, the disputed domain name has been used in a phishing scheme.

The Panel would have appreciated for Complainant to describe the phishing scheme instead of solely referring to an annex. However, the annex provided shows that Respondent used or is using the disputed domain name to impersonate one of Complainant's employees to trick customers of Complainant into proceeding with a wire transfer, which further demonstrates Respondent's lack of legitimate interest or rights in the disputed domain name (see *United Rentals, Inc. v. saskia gaaede / Mr. Forum Case No. 1775963*).

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

To fulfil the third requirement of the Policy, Complainant must prove that the disputed domain name was registered and used in bad faith.

1) Registration in bad faith

Bad faith can be found where Respondent "knew or should have known" of Complainant's trademark rights and, nevertheless registered a domain name in which they had no rights or legitimate interests (see for instance *Research In Motion Limited v. Privacy Locked LLC/Nat Collicot, WIPO Case No. D2009-0320* and *The Gap, Inc. v. Deng Youqian, WIPO Case No. D2009-0113*).

Complainant was founded in 2006 and acquired its trademark rights on the ARCELORMITTAL sign at least since 2007. Thus, Complainant's registered trademark registration predates the registration date of the disputed domain name.

Besides, the Panel considers Complainant's registered trademark to be well established (see *ARCELORMITTAL v. China Capital, CAC Case No. 101908*, *ARCELORMITTAL v. Robert Rudd, CAC Case No. 101667*). Hence, the Panel finds that Respondent was obviously aware of Complainant's trademark rights and precisely registered the disputed domain name for its resemblances with Complainant's trademark. In fact, the disputed domain name corresponds to typosquatting as abovementioned.

2) Use in bad faith

The disputed domain name has been used in a phishing scheme through the impersonation of one of Complainant's employees to trick customers into making wire transfers. Such use of the disputed domain name clearly amounts to use in bad faith.

Besides, the disputed domain name directs to an inactive page. Therefore, in the event the fraud is not ongoing anymore, the Panel would like to remind that passive holding does not preclude a finding of bad faith, especially when the disputed domain name incorporates a famous trademark (see e.g., *Hugo Boss Trade Mark Management GmbH & Co. KG, et al. v. Private Registration/George Kara, WIPO Case No. D2015-0666*).

It seems that Respondent is attempting to benefit from the reputation of Complainant's trademark and it appears that Respondent's primary motive in registering and using the disputed domain name was to capitalize on or otherwise take advantage of Complainant's trademark rights, through the creation of initial interest of confusion.

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

PROCEDURAL FACTS

The Complaint was filed with the CAC on December 2, 2022. On the same day, the Center transmitted by e-mail to the Registrar a request for registrar verification. The CAC sent an e-mail communication to Complainant, on December 6, 2022, providing information disclosed by the Registrar. Complainant filed an amendment to the Complaint within the appointed deadline.

In accordance with the Rules, the CAC formally notified Respondent of the Complaint, and the proceedings commenced on December 6, 2022. Respondent did not submit any response to the complaint and the Respondent's default was notified on December 27, 2022.

The CAC appointed Nathalie Dreyfus as the sole panelist in this matter on December 29, 2022.

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 Complainant's "ARCELORMITTAL" trademark and the construction of the disputed domain name shows an act of typosquatting.

2/ The Panel finds that Complainant successfully submitted evidence that Respondent has made no use of, or demonstrable preparation to use, the disputed domain name in connection with a *bona fide* offering of goods or services, nor is Respondent making a fair use of the disputed domain name, nor is Respondent commonly known under the disputed domain name. On the contrary, the disputed domain name has been used in a phishing scheme, which cannot amount to rights or legitimate interest in the dispute domain name.

3/ The Panel finds that Respondent knew Complainant's trademark when he registered the disputed domain name. Finally, the disputed domain name is used in a bad faith manner because it resolves to an inactive page and it has been used in a phishing scheme.

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <arceiornittai.com> be transferred to Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **arceiornittai.com**: Transferred

PANELLISTS

Name	Nathalie Dreyfus
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DATE OF PANEL DECISION	2023-01-13
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Publish the Decision
