

Decision for dispute CAC-UDRP-105087

Case number CAC-UDRP-105087

Time of filing 2022-12-27 09:41:10

Domain names mittal-mexico.com

Case administrator

Organization Denisa Bilík (CAC) (Case admin)

Complainant

Organization ARCELORMITTAL (SA)

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Name ignacio cortez

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° 1198046 MITTAL registered on December 5, 2013. The Complainant also owns an important domain names portfolio, including the same distinctive wording MITTAL, such as the domain name <arcelormittal.com> registered since January 27, 2006 and <mittalmexico.com> registered since November 4, 2019

FACTUAL BACKGROUND

The Complainant, ARCELORMITTAL S.A., 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 operations in more than 60 countries.

The disputed domain name was registered on December 20, 2022.

The disputed domain name currently is not linked to a website.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant contends that:

1. The disputed domain name is confusingly similar to the Complainant's trademark.

The Complainant states that the disputed domain name is confusingly similar to its trademark MITTAL and its domain names. In support of this claim, the Complainant refers to prior UDRP cases and affirms that it is a well-established principle that when a domain name wholly incorporates the Complainant's registered mark, the first requirement under the UDRP shall be considered accomplished.

Further, the Complainant asserts that the addition of the geographic term "Mexico" is not sufficient to escape the finding that the domain name is confusingly similar to the Complainant's trademark.

Besides, the Complainant asserts that the MITTAL trademark is a renowned trademark, and that past panels have confirmed this renown of the MITTAL trademark in the following cases:

- WIPO Case No. D2018-1086, ArcelorMittal S.A. v. Registrant of lakshmimittal.org, c/o WHOIstrustee.com Limited / Zeus Holding Market Ltd. ("The Domain Name wholly incorporates a well-known mark [MITTAL]");
- WIPO Case No. D2010-2049, Arcelormittal v. Mesotek Software Solutions Pvt. Ltd. ("the Complainant's marks MITTAL and MITTAL STEEL have been widely used and are well-known.").

2. The Respondent does not have any rights or legitimate interest in the disputed domain name.

The Complainant contends that the Respondent is not affiliated with nor authorized by ARCELORMITTAL S.A. in any way. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant does not carry out any activity for, nor has any business with the Respondent. No licence nor authorization has been granted to the Respondent to make any use of the Complainant's MITTAL trademark, nor has permission been given to apply for registration of the disputed domain name.

The disputed domain name has been registered and is being used in bad faith.

The Complainant contends that it is inconceivable that the Respondent could have registered the disputed domain name without actual knowledge of Complainant's rights in the trademark MITTAL. The Complainant asserts that the Respondent fails to make an active use at the disputed domain name, and that failure to make an active use of the disputed domain name is evidence of bad faith. Besides the Complainant contends that MX servers are configured, and this suggests that the disputed domain name may be actively used for email purposes.

RESPONDENT:

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

A) Confusing similarity

The disputed domain name contains the Complainant's registered international trademark MITTAL in its entirety with the addition of the geographic term "Mexico".

This Panel agrees with the Complainant's and previous Panels' view, that the addition of a generic term associated to a trademark does not create a new or different right to the mark or diminish confusing similarity.

B) Lack of legitimate rights or interests

The disputed domain name is a distinctive, non-descriptive name. It is unlikely that the Respondent registered the disputed domain name without having the Complainant firmly in mind. The Complainant's assertions that the Respondent is not commonly known by the disputed domain name and is not affiliated with nor authorized by the Complainant are sufficient to constitute a prima facie demonstration of the absence of rights or legitimate interests in the disputed domain name on the part of the Respondent. The burden of evidence therefore shifts to the Respondent to show, using tangible evidence, that it does have rights or legitimate interests in the disputed domain name. The Respondent has made no attempt to do so.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

C) Registered or Used in Bad Faith

The Complainant gives sound bases for its contention that the disputed domain name was registered and has been used in bad faith.

Firstly, owing to the distinctiveness of the Complainant's trademark and reputation, it is reasonable to infer that the Respondent registered the disputed domain name with full knowledge of the Complainant's trademark, and so the Panel finds on the balance of probabilities that the Respondent was aware of the Complainant's trademark when registering the disputed domain name.

Secondly, the Panel accepts the Complainant's unchallenged assertion that the Respondent registered the disputed domain name with the aim of creating a likelihood of confusion with the Complainant's trademark.

Thirdly, it appears that the Respondent is passively holding the disputed domain name.

Fourthly, the Respondent has not responded to nor denied any of the assertions made by the Complainant in this proceeding.

For all the reasons stated above, the Complaint is Accepted

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **mittal-mexico.com**: Transferred

PANELLISTS

Name	Fabrizio Bedarida
------	--------------------------

DATE OF PANEL DECISION **2023-01-20**

Publish the Decision
