

Decision for dispute CAC-UDRP-105125

Case number	CAC-UDRP-105125
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Time of filing	2023-01-16 09:11:13
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Domain names	projectxcarb.com
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Case administrator

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

Organization	ARCELORMITTAL
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Complainant representative

Organization	NAMESHIELD S.A.S.
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Respondent

Organization	shaoqing
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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

The Complainant is inter alia owner of EU trademark registration no. 018383608 XCarb, filed on January 27, 2021, in classes 04, 06, 12, 36, 40, 42, and 45 (hereinafter referred to as the "Trademark").

FACTUAL BACKGROUND

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 of crude steel made in 2021.

The Complainant started using the trademark XCarb in 2020 in connection with its reduced, low, and zero-carbon products and steelmaking activities.

The disputed domain name was registered on November 24, 2022, and was redirecting to a Chinese website dedicated to a company "Bazhong Tongjiang Renbin". The domain name is now inactive.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant contends that the disputed domain name is confusingly similar to the Trademark as it includes the Trademark in its entirety and as the addition of the generic term "project" does not change the overall impression of the disputed domain name as being connected to the Trademark. It argues, that the term "project" makes reference to the recent initiative of the Complainant for the development of a decarbonization strategy.

Furthermore, the Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. In this regard, the Complainant states that the Respondent is not known as the disputed domain name, that the Respondent is not related in any way to the Complainant, that neither license nor authorization has been granted to the Respondent by the Complainant to make any use of the Trademark or apply for registration of the disputed domain name, and that the Respondent's use of the disputed domain name to forward Internet users to a website featuring the construction of industrial machines and tools and thus competing products may not qualify as a bona fide offering of goods or services nor as a legitimate non-commercial or fair use under Policy.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. In this regard, the Complainant argues that the use of a domain name that is confusingly similar to a trademark with which the respondent has no connection has frequently been held to be evidence of opportunistic bad faith. With regard to bad faith use, the Complainant argues that the Respondent registered and used the disputed domain name to attract Internet users and offer possibly fraudulent services or, at a minimum, disrupt Complainant's business by offering services in direct competition with the Complainant.

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

Under paragraph 4(a) of the Policy, the Complainant must prove that each of the following three elements is present:

- (i) the disputed domain name is identical or confusingly similar to the Complainant's trademark; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

1. The Panel accepts that the disputed domain name is confusingly similar to the Trademark. It is well established that a domain name that wholly incorporates a trademark may be confusingly similar to such trademark for purposes of the Policy despite the addition of generic terms, such as "projects".

2. The Complainant has substantiated that the Respondent has no rights or legitimate interests in the disputed domain name. The Panel finds that the Complainant has fulfilled its obligations under paragraph 4(a)(ii) of the Policy. The Respondent did not deny these assertions in any way and therefore failed to prove any rights or legitimate interests in the disputed domain name.

Based on the evidence on file, the Panel cannot find any rights or legitimate interests of the Respondent either. In particular, it is not evident that the Respondent has own rights in the disputed domain name or the name "PROJECTXCARB". Rather, it is using the disputed domain name to forward to a competing website. Accordingly, the Panel finds that the Complainant has proven that the Respondent has no rights or legitimate interests in respect of the disputed domain name under paragraphs 4(a)(ii) and 4(c) of the Policy.

3. The Panel is satisfied that the Respondent registered the disputed domain name with full knowledge of the Complainant and its rights in the Trademark, as the Respondent is using the disputed domain name to forward Internet users to a website offering products competing with the Complainant's ones and as the Complainant is the largest steel producing company and its products should be well known in the industry.

As to bad faith use, by using the disputed domain name to forward Internet users to a website offering products competing with the Complainant's ones, the Respondent was, in all likelihood, trying to divert traffic intended for the Complainant's website to its own for commercial gain as set out under paragraph 4(b)(iv) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **projectxcarb.com**: Transferred

PANELLISTS

Name	Peter Müller
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DATE OF PANEL DECISION 2023-02-16

Publish the Decision