

Decision for dispute CAC-UDRP-105294

Case number	CAC-UDRP-105294
Time of filing	2023-03-22 09:32:50
Domain names	arcelormittal-associations.com

Case administrator

Name	Olga Dvořáková (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

Name	Anonymous Anonymous
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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 the owner of international trade mark no 947686 ARCELORMITTAL registered on August 3, 2007 in Classes 6, 7, 9, 12, 19, 21, 39, 40, 41 and 42 with priority on June 18, 2005.

FACTUAL BACKGROUND

The Complainant has chosen, as a Mutual Jurisdiction, that one of the Registrar.

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

The Complainant is the result of a merger in 2006 between Arcelor and the Mittal Steel resulting in the world's largest steel producer. ARCELORMITTAL is therefore the name used for this global operation on the steel world market. It is a company specialized in steel producing and it is the largest player in this sector worldwide being the leader of this crucial market.

Furthermore, the Complainant also claims that the disputed domain name is confusingly similar to the trademark ARCELORMITTAL given that the domain name comprises of the said trademark in its entirety. The addition of the generic word ASSOCIATIONS is not

sufficient to exclude confusing similarity in fact it does not change or reduce the overall impression of the high similarity of the signs in comparison. It is well established that „a domain name that wholly incorporates a Complainant’s registered trademark may be sufficient to establish confusing similarity for the purpose of the UDRP“ (Wipo Case No.D2003-0888 Dr.Ing.H.C.F.Porsche AG vs Visilly Terkin).

Past panels have confirmed the notoriety of the trademark ARCELORMITTAL in the following cases:

- CAC Case No. 101908, ARCELORMITTAL v. China Capital ("The Complainant has established that it has rights in the trademark "ArcelorMittal", at least since 2007. The Complainant's trademark was registered prior to the registration of the disputed domain name (February 7, 2018) and is widely well-known.");
- CAC Case No. 101667, ARCELORMITTAL v. Robert Rudd ("The Panel is convinced that the Trademark is highly distinctive and well-established.").

Given the distinctiveness of the Complainant's trademarks and its reputation, it is reasonable to infer that the Respondent has registered and used the domain name with full knowledge of the Complainant's trademark (WIPO Case No. D2004-0673, Ferrari S.p.A v. American Entertainment, Group Inc).

The Respondent has registered the disputed domain name only in order to create likelihood of confusion with the Complainant's trademark. The Respondent has no legitimate interests on the domain name de quo and it is not related in any way with the legitimate trademark owner. He is neither authorised nor was given any licence.

The Respondent did not use the disputed domain name since its creation and has no plans to use it, therefore the Complainant contends that the Respondent has no legitimate interest in respect of the disputed domain name arcelormittal-associations.com.

The Complainant underlines that past panels have confirmed the notoriety of the trademark ARCELORMITTAL in the following cases:

The Complainant contends that Respondent did not use its domain name until its creation. In fact the domain name resolves to an error page.

As prior WIPO UDRP panels (WIPO Case No. D2000-0003, Telstra Corporation Limited v. Nuclear Marshmallows and WIPO Case No. D2000-0400, CBS Broadcasting, Inc. v. Dennis Toepfen,) have held, the incorporation of a famous mark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use.

It is in bad faith given the notoriety of the Complainant’s trademark and being the domain name inactive since its registration . Furthermore the Complainant contends that MX servers are configured which suggests that the disputed domain name may be actively used for email purposes. This is another proof of bad faith (Cac Case No.102827 JDCCAUX Sa Vs. Handi Hariyono.

PARTIES CONTENTIONS

Complainant’s contentions are summarised above.

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

Past panels have confirmed the notoriety of the trademark ARCELORMITTAL in the following cases:

- CAC Case No. 101908, ARCELORMITTAL v. China Capital ("The Complainant has established that it has rights in the trademark "ArcelorMittal", at least since 2007. The Complainant's trademark was registered prior to the registration of the disputed domain name (February 7, 2018) and is widely well-known.");
- CAC Case No. 101667, ARCELORMITTAL v. Robert Rudd ("The Panel is convinced that the Trademark is highly distinctive and well-established.").

Previous panels have found that the slight variations do not prevent a disputed domain name from being confusing similar to the complainant's trademark.

- WIPO Case No. D2004-0296, Costco Wholesale Corporation v. Yong Li (<coscto.com>);
- WIPO Case No. D2015-0451, Clarins v. "-, Unknown Registrant" / Registration Private, Domains By Proxy, LLC (<calrins.com>);
 - WIPO Case No. D2011-1658, Alstom v. Telecom Tech Corp./Private Registration (<asltom.com>).

The Panel agrees with the Complainant that adding the word ASSOCIATIONS is not sufficient to avoid confusing similarity and does not render the disputed domain name sufficiently different to the Complainant's trademark and tradename. The disputed domain name looks extremely similar almost identical to the Complainant's mark and internet users can certainly be misled by the disputed domain name. The addition of the gTLD .com is a functional element of a domain name and does not distinguish the disputed domain name from the Complainant's mark under the Policy. The Panel finds that the disputed domain name is confusingly similar to the Complainant's mark.

The Respondent does not appear to be commonly known by the disputed domain name or "arcelormittall". This is a blatant attempt to use the Complainant's trademark, maybe in its email messages, to attract users and mislead the receivers.

The Respondent does not appear to have any relationship with the Complainant and has not been authorised by the Complainant to use the Complainant's mark. The disputed domain name has not been put to any use. In the light of the lack of any response from the Respondent the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

The disputed domain name resolves to an error page and therefore Respondent did not use the disputed domain name until its creation. Passive holding of a domain name containing a famous mark is bad faith and the Respondent has not responded to refute the allegation that this is passive holding. Accordingly the Panel holds that the disputed domain name has been registered and used in bad faith. Given the distinctiveness of the Complainant's trademarks and its reputation, it is reasonable to infer that the Respondent has registered and used the disputed domain name with full knowledge of the Complainant's trademark.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **arcelormittal-associations.com**: Transferred

PANELLISTS

Name	Massimo Cimoli
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DATE OF PANEL DECISION 2023-04-24

