

Decision for dispute CAC-UDRP-105422

Case number CAC-UDRP-105422

Time of filing 2023-05-09 09:01:16

Domain names acerlormittal.com

Case administrator

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

Complainant

Organization ARCELORMITTAL

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Organization FWD 11

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

International trademark n° 947686 ARCELORMITTAL® registered on August 3, 2007.

FACTUAL BACKGROUND

ARCELORMITTAL (the Complainant) is along the largest steel producing company in the world and claim to be the market leader in steel for use in automotive, construction, household appliances and packaging with 69.1 million tons crude steel made in 2021.

The disputed domain name was registered on April 27, 2023 and resolves to a registrar parking page with commercial links. MX servers are configured.

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).

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

FIRST CONDITION

The Complainant has a trademark for "ARCELORMITTAL" where the disputed domain name reads as "ACERLORMITTAL".

The displacement of the letter "R" is not sufficient to exclude a risk of confusing similarity.

It is indeed well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.

SECOND CONDITION

The Complainant explains, without being contradicted, that it did not authorize the registered domain name holder and has had no contact of any kind with the holder.

One can also add that:

- It is unlikely that the Respondent could have been unaware of the Complainant's existence, as a search on major search engines using the disputed domain name immediately brings up the Complainant's official sites in the top results.
- The 'legitimate' interest seems doubtful as the disputed domain name contains no information other than paid links to other sites, some of which are related to the steel and metal industry, i.e. the Complainant's activity. Applying UDRP (Uniform Domain Name Dispute Resolution Policy) paragraph 4(c), panels have found that the use of a domain name to host a parked page comprising PPC (Pay-Per-Click) links does not represent a bona fide offering when such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users.

THIRD CONDITION

WIPO Jurisprudential Overview 3.0., paragraph 3.1.4 states: "Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith." In the absence of any information provided by the Respondent, the Panel considers that the evidence strongly suggests that the misspelling of the Complainant's trademark was designed to be confusingly similar to the Complainant's trademark. This circumstance is usually seen as evidence of bad faith (see NAF Case No. FA 877979, Microsoft Corporation v. Domain Registration Philippines). The presence of PPC (Pay-Per-Click) links reinforces this conclusion.

In addition, it is likely that the Respondent is trying to conceal its identity regarding the ownership of the disputed domain name – as his name and contact details are covered by a privacy shield in the corresponding Whois record – which is further evidence of bad faith (Instagram, LLC v. Registration Private, Domains By Proxy, LLC / Murat Sander, WIPO Case No. D2021-0526).

Finally, MX servers are configured which suggests that the disputed domain name may be actively used for e-mail purposes. Because of the risks of fraud/phishing that sending e-mails can entail, it is all the more important that the Respondent explains his approach. His silence can only reinforce the impression of bad faith. WIPO Jurisprudential Overview 3.0., paragraph 3.1.4 states: "(...) given that the use of a domain name for per se illegitimate activity such as the sale of counterfeit goods or phishing can never confer rights or legitimate interests on a respondent, such behavior is manifestly considered evidence of bad faith. See also CAC Case No. 102827, JCDECAUX SA v. Handi Hariyono.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **acerlormittal.com**: Transferred

PANELLISTS

Name	Mr. Etienne Wéry
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DATE OF PANEL DECISION 2023-06-06

Publish the Decision
