

Decision for dispute CAC-UDRP-105444

Case number	CAC-UDRP-105444
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Time of filing	2023-05-16 08:41:18
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Domain names	inndusteel.com
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Case administrator

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

Organization	INDUSTEEL FRANCE
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Complainant representative

Organization	NAMESHIELD S.A.S.
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Respondent

Organization	optional accesss
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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 INDUSTEEL® trademarks, such as:

- International trademark n° 745241 INDUSTEEL® filing date on 5 October 2000; or
- EU trademark n° 1920438 INDUSTEEL® filing date on 6 October 2000.

("Complainant's Trademarks")

The disputed domain name <inndusteel.com> was registered on 1 May 2023.

FACTUAL BACKGROUND

As the Respondent did not file any response to the complaint, the Panel took into account the following facts asserted by the Complainant (and supported by the documentary evidence submitted by the Complainant) and unchallenged by the Respondent:

1. The Complainant, a subsidiary of ArcelorMittal, is specialized in the production of hot rolled as well as forged steel plates, ingots and formed pieces, with the largest dimension range worldwide.

2. The Complainant is the owner of the Complainant's Trademark and also of owner of several domain names comprising the term "INDUSTEEL", such as the domain names <industeel-france.com>, registered in 2018, and <industeel.net>, registered since 2006.
3. The disputed domain name resolves to an index page and its MX servers are configured.

The Complainant seeks transfer of the disputed domain name to the Complainant.

PARTIES CONTENTIONS

THE COMPLAINANT:

In addition to the above factual assertions, the Complainant also contends the following:

- (i) Disputed domain name is confusingly similar to Complainant's Trademark as it contains an obvious misspelling of the Complainant's Trademarks. Mere addition of letter "n" to the disputed domain name is not sufficient to exclude the likelihood of confusion with Complainant's Trademarks.
- (ii) Respondent has no rights or legitimate interests in respect of the disputed domain name and he is not related in any way with the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent. Neither license nor authorization has been granted to the Respondent to make any use of the Complainant's Trademarks or apply for registration of the disputed domain name by the Complainant.
- (iii) Disputed domain name has been registered and is being used in bad faith. Given the distinctiveness of Complainant's Trademarks and their reputation, 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 Complainant's Trademarks. Furthermore, the disputed domain name resolves to an index page and MX servers are configured. The Complainant contends that the Respondent has not demonstrated any activity in respect of the disputed domain name, and it is not possible to conceive of any plausible actual or contemplated active use of the domain name by the Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant's rights under trademark law. As prior WIPO UDRP panels 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.

THE RESPONDENT:

The Respondent did not provide any response to the complaint.

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 Uniform Domain Name Dispute Resolution Policy ("**UDRP**" or "**Policy**").

For details, please see "Principal Reasons for the Decision".

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).

For details, please see "Principal Reasons for the Decision".

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).

For details, please see "Principal Reasons for the Decision".

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

Paragraph 4(a) of the Policy requires that the Complainant proves each of the following three elements to obtain an order that the disputed domain name should be transferred or revoked:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; 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.

The Panel will proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied in this proceeding.

RIGHTS

The disputed domain name is confusingly similar to the Complainant's Trademark. As the Complainant correctly pointed out, mere addition of the letter "n" to the disputed domain name is not sufficient to exclude the likelihood of confusion with Complainant's Trademarks. It is an obvious, and in the opinion of the Panel also deliberate misspelling of Complainant's Trademark and thus a clear case of typosquatting.

For sake of completeness, the Panel asserts that the top-level suffix in the domain name (i.e. the ".com") must be disregarded under the identity / confusing similarity test as it is a necessary technical requirement of registration.

Therefore, the Panel concludes that the Complainant satisfied the requirement under paragraph 4(a)(i) of the Policy.

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the UDRP (please see, for example, WIPO case no. D2003-0455, Croatia Airlines d.d. v. Modern Empire Internet Ltd.).

The disputed domain name points to an inactive website with index page. As asserted by the Complainant (and unchallenged by the Respondent), the Respondent is not commonly known by the disputed domain name. Neither is the Respondent in any way related to the Complainant. The Respondent failed to provide any information and evidence that it has relevant rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a) (ii) of the Policy).

Therefore, the Panel concludes that the Respondent did not establish any right or legitimate interest to the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The disputed domain name points to an inactive website with index page. The Panel agrees with the Complainant that the Respondent registered disputed domain name with a spelling error and thus deliberately created a likelihood of confusion with the Complainant's Trademark which are distinctive and enjoy good reputation. Such practice is a clear example of typosquatting and thus bad faith of the Respondent in registration and use of the disputed domain name as it is hardly possible to conceive any plausible actual or contemplated active use of the disputed domain name by the Respondent that would not be illegitimate.

As a result, the Panel found that the disputed domain name has been registered and used by the Respondent in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. inndusteel.com: Transferred

PANELLISTS

Name Michal Matějka

DATE OF PANEL DECISION 2023-06-10

Publish the Decision