

Decision for dispute CAC-UDRP-105465

Case number CAC-UDRP-105465

Time of filing 2023-05-25 08:57:22

Domain names a-arcelormittal.com

Case administrator

Name Olga Dvořáková (Case admin)

Complainant

Organization ARCELORMITTAL (SA)

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Name Tony Lil

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 owner of International Registered Trademark no. 947686 for the word mark ARCELORMITTAL, registered on August 3, 2007 in Classes 6, 7, 9, 12, 19, 21, 39, 40, 41 and 42, designated in respect of over 40 territories.

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. It holds sizeable supplies of raw materials and operates extensive distribution networks.

In addition to the Complainant's ARCELORMITTAL registered trademark, the Complainant owns a domain name portfolio containing domain names such as <arcelormittal.com>, registered since January 27, 2006.

The disputed domain name was registered on May 19, 2023 and resolves to a parking page containing commercial links, including at least one, "Fonderie Aluminium" that appears to be relevant to the Complainant's line of business.

PARTIES CONTENTIONS

Complainant:

The disputed domain name is confusingly similar to the Complainant's ARCELORMITTAL trademark as it includes this in its entirety. The addition of the letter "a" and hyphen is characteristic of a typosquatting practice intended to create confusing similarity between the Complainant's trademark and the disputed domain name. Previous panels have found that slight spelling variations do not prevent a domain name from being confusingly similar to a complainant's trademark.

The addition of the gTLD ".com" does not change the overall impression of the designation as being connected to the Complainant's trademark or prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and its associated domain names.

The Respondent has no rights or legitimate interests in the disputed domain name.

The Respondent is not identified in the Whois database as the disputed domain name. Previous panels have held that a respondent is not commonly known by a domain name if the Whois information is not similar thereto. The Respondent is not related to the Complainant in any way. The Complainant does not carry out any activity for the Respondent and has no business with it. No license nor authorization has been granted to the Respondent to make any use of the Complainant's ARCELORMITTAL trademark or to apply for registration of the disputed domain name. The disputed domain name is a typosquatted version of the Complainant's trademark, namely it was registered in an attempt to take advantage of Internet users' typographical errors, and this can evidence that a respondent lacks rights and legitimate interests in the domain name concerned.

The disputed domain name resolves to a parking page with commercial links. Previous panels have found that this is not a bona fide offering of goods or services or legitimate non-commercial or fair use.

The disputed domain name was registered and is being used in bad faith. The Complainant's trademark is widely known and previous panels have confirmed its notoriety. Given the distinctiveness of the Complainant's trademark and reputation, it is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademark. The misspelling of the Complainant's trademark was intentionally designed to be confusingly similar thereto. Previous panels have seen this as evidence of bad faith.

The disputed domain name resolves to a parking page with commercial links. The Respondent has attempted to attract Internet users for commercial gain to its own website because of the Complainant's trademark, which is evidence of bad faith.

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

The Complainant has demonstrated that it has UDRP-relevant rights in its ARCELORMITTAL trademark by virtue of International Registered Trademark no. 947686. The Second-Level Domain of the disputed domain name contains the said trademark in its entirety, prefixed with the letter “a” and a hyphen, each of which have no distinguishing significance. The said mark is therefore fully recognizable in the disputed domain name based upon a straightforward side-by-side comparison. The generic Top-Level Domain in respect of the disputed domain name, namely “.com”, is typically disregarded for the purposes of the comparison under the first element analysis of the Policy. Accordingly, the Panel finds that the disputed domain name is confusingly similar to the Complainant’s ARCELORMITTAL trademark.

With regard to the second element of the Policy, the Complainant asserts that the Respondent is not commonly known by the disputed domain name (according to a review of the corresponding Whois information), that the Respondent is not affiliated with, licensed nor authorized by the Complainant in any manner, that the Complainant carries out no activity for the Respondent and has no business with it, and that no license nor authorization has been granted to the Respondent by the Complainant to make any use of the Complainant’s said trademark or to apply for registration of the disputed domain name. The Complainant submits, with corresponding evidence, that the disputed domain name is being used for a parking page with commercial links, and the Panel furthermore observes that at least one of these links appears to reference the Complainant’s line of business.

The Panel finds that the Complainant’s assertions, taken together, are sufficient to constitute the requisite prima facie case that the Respondent has no rights and legitimate interests in the disputed domain name (see, for example, section 2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“WIPO Overview 3.0”). In particular, the Panel accepts that the disputed domain name is more probably than not a typosquatted version of the Complainant’s trademark which has been registered to take advantage of Internet users’ typographical errors in typing the Complainant’s mark. The fact that the disputed domain name is extremely close alphanumerically to the domain name used for the Complainant’s official website suggests to the Panel that it is very likely to be mistyped by Internet users seeking such website, and that the Respondent more probably than not selected it for that reason. The fact that the disputed domain name has been created and is being used for the purposes of typosquatting is indicative of a lack of rights and legitimate interests on the Respondent’s part. Furthermore, the disputed domain name itself points to a parking page containing advertising which relates at least in part to the Complainant’s line of business and this use attempts to free ride on the Complainant’s mark, such that it cannot give rise to rights or legitimate interests in the disputed domain name.

The Respondent has not replied to the Complainant’s allegations and evidence in this case and has failed to set out any alleged rights or legitimate interests which it might have claimed in the disputed domain name. There are no submissions or evidence on the record which might serve to rebut the Complainant’s prima facie case. Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

The Panel finds that the disputed domain name has been registered and is being used in bad faith. It may be noted that the Complainant’s ARCELORMITTAL trademark registration long pre-dates the registration of the disputed domain name. Previous cases under the Policy note that the Complainant’s mark is well-established and highly distinctive (see, for example, ARCELORMITTAL v. Robert Rudd, CAC-UDRP-101667). As noted above, the disputed domain name appears to be an intentionally designed typosquatting variant of such mark. In these circumstances, it is entirely reasonable to infer that the disputed domain name was registered by the Respondent with an awareness of the Complainant and its rights, and with an intent to target these.

The website associated with the disputed domain name features commercial advertising links, including at least one that appears to the Panel to be related to the Complainant’s line of business. In these circumstances, the Panel is of the view, on the balance of probabilities, that the Respondent is taking unfair advantage of the confusion generated by a typographical variant of the Complainant’s mark in the disputed domain name to maximize the traffic to the Respondent’s website in order to benefit from the corresponding advertising impressions. In any event, the use of such advertising links is indicative of registration and use in bad faith even if the Respondent has not directly published the links concerned itself, as the registrant of a domain name is generally deemed responsible for the content on the associated website. In terms of paragraph 4(b)(iv) of the Policy, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant’s mark as to source, sponsorship, affiliation, or endorsement of its website.

In all of these circumstances, the Panel considers that the Complainant has made out a sufficient case of registration and use in bad faith. The Respondent has not filed a Response in this case and therefore has not sought to address the Complainant’s allegations of bad faith registration and use in any way. It has not sought to provide any explanation that might have suggested that its actions regarding the disputed domain name were in good faith, and the Panel has been unable to identify any conceivable good faith explanation which the Respondent might have put forward in this case.

In all of these circumstances, the Panel finds that the disputed domain name has been registered and is being used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

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

PANELLISTS

Name **Andrew Lothian**

DATE OF PANEL DECISION **2023-06-23**

Publish the Decision
