

Decision for dispute CAC-UDRP-105655

Case number	CAC-UDRP-105655
Time of filing	2023-07-25 10:21:57
Domain names	arcelormittal-contracts.com

Case administrator

Name	Olga Dvořáková (Case admin)
------	-----------------------------

Complainant

Organization	ARCELORMITTAL
--------------	---------------

Complainant representative

Organization	NAMESHIELD S.A.S.
--------------	-------------------

Respondent

Name	BILLY CHILL
------	-------------

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

Complainant has provided evidence of its trademark registration consisting of the sign held by ARCELORMITTAL:

- The International trademark ARCELORMITTAL n° 947686 registered since August 3, 2007, covering goods and services in classes 06, 07, 09, 12, 19, 21, 39, 40, 41, 42, duly renewed.

FACTUAL BACKGROUND

Complainant ARCELORMITTAL is a leading figure in steel production worldwide, being the largest steel-producing company in the world with 59 million tons of crude steel made in 2022. It holds sizeable captive supplies of raw materials and operates extensive distribution networks.

As part of its business activities, Complainant has registered several domain names incorporating the trademark ARCELORMITTAL, including <arcelormittal.com> registered since January 27, 2006.

The Disputed Domain Name < arcelormittal-contracts.com > was registered on July 18, 2023, and resolves to an inactive page. It also appears that MX servers have additionally been configured.

PARTIES CONTENTIONS

1. Complainant

Firstly, Complainant argues that the Disputed Domain Name is confusingly similar to its ARCELORMITTAL trademark and its domain name <arcelormittal-contracts.com>, as it includes Complainant's trademark and domain name in its entirety.

Complainant contends that the addition of the term "contracts" to the trademark ARCELORMITTAL is not sufficient to escape the finding that the domain name is confusingly similar to the trademark. (see for instance Dr. Ing. h.c. F. Porsche AG v. Vasily Terkin, WIPO Case No. D2003-0888).

Complainant asserts that the addition of the gTLD ".com" does not prevent the risk of confusion between the Disputed Domain Name and ARCELORMITTAL trademark (see for instance F. Hoffmann-La Roche AG v. Macalve e-dominios S.A. WIPO Case No. D2006-0451).

Secondly, Complainant claims that Respondent has no rights or legitimate interests in this Disputed Domain Name. Complainant also claims that Respondent is not related to him, nor do they carry out any activities or business together.

According to Complainant, it appears that Respondent is not commonly known by the term "arcelormittal-contracts" as the Whois information is not similar to the Disputed Domain Name.

Complainant declares that it has not granted any license or authorization to Respondent to use its ARCELORMITTAL trademark in association with the Disputed Domain Name.

Finally, Complainant asserts that Respondent has registered and is using the Disputed Domain Name in bad faith.

Complainant highlights that past Panels have held that the international trademark ARCELORMITTAL is well-known (see for instance CAC Case No. 101908, ARCELORMITTAL v. China Capital).

Accordingly, Complainant argues that Respondent could not ignore Complainant and its activities, given the distinctiveness and reputation of the ARCELORMITTAL trademark, and has therefore registered the Disputed Domain Name with full knowledge of said trademark.

To conclude, Complainant points out the fact that the Disputed Domain Name is inactive. Complainant interprets this lack of use as proof of the sole intention of Respondent to create a likelihood of confusion with Complainant and its trademark. Thus, Complainant claims that the use of the Disputed Domain Name supports the argument of use and registration in bad faith.

2. Respondent

Respondent did not reply to Complainant's contentions and is therefore in default.

RIGHTS

Paragraph 15(a) of the Rules instructs this Panel to "decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

According to Policy 4(a), Complainant must satisfy three conditions in order to obtain a deletion or a transfer of the Disputed Domain Name:

- (i) the Disputed Domain Name must be identical or similar to the name in which the national law of the Member State and/or the law of the European Union recognizes or establishes a right; and,
- (ii) the Disputed Domain Name must have been registered by Respondent without any rights or legitimate interests in the Disputed Domain Name; or
- (iii) the Disputed Domain Name must have been registered or is being used in bad faith.

According to Paragraph 4(a)(i) of the Policy, Complainant must prove that the Disputed Domain Name is confusingly similar to the registered trademark in which Complainant has rights. Complainant has filed and registered the international trademark ARCELORMITTAL.

The Disputed Domain Name incorporates Complainant's ARCELORMITTAL trademark in its entirety. The addition of the generic term "contracts" and a dash does not prevent a finding of confusing similarity under policy, paragraph 4 (a)(i).

Moreover, the gTLD ".com" is not to be taken into consideration when examining the identity or similarity between Complainant's

registered trademark and the Disputed Domain Name, as it is viewed as a standard registration requirement. (See for instance Fendi Srl v. Ren Fu Rong, WIPO Case No. D2021-2115).

For the aforementioned reasons, the Panel finds that the Disputed Domain Name is confusingly similar to Complainant's ARCELORMITTAL trademark under paragraph 4 (a)(i) of the Policy.

NO RIGHTS OR LEGITIMATE INTERESTS

Under Policy paragraph 4(a)(ii), Complainant must first make out a prima facie case showing that Respondent lacks rights and legitimate interests in respect of the Disputed Domain Name and then the burden of proof shifts to Respondent to come forward with evidence of rights or legitimate interests. If Respondent fails to do so, Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy. In the present case, Respondent did not submit arguments in response to the complaint and is therefore in default.

Respondent has no association with Complainant and has not been authorized to use and register any domain name that includes the ARCELORMITTAL trademark. Respondent cannot claim prior rights or legitimate interest in the Disputed Domain Name as the registered trademark precedes the registration of the Disputed Domain Name.

Finally, there is no evidence that Respondent has become commonly known by the terms "arcelormittal-contracts", in accordance with paragraph 4(c)(ii) of the Policy. As the Disputed Domain Name is confusingly similar to Complainant's well-known registered trademark, Respondent cannot plausibly pretend he was intending to develop a legitimate activity through the Disputed Domain Name.

Having considered the above circumstances, the Panel finds that Respondent has no rights or legitimate interests in respect of the Disputed Domain Name, and the requirement of paragraph 4(a)(ii) of the Policy is satisfied.

BAD FAITH

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).

To establish that the Disputed Domain Name has been registered in bad faith, Complainant must show that Respondent "knew or should have known" about the Complainant and the trademark and nevertheless registered a domain name which he had no rights and legitimate interests (see for instance Research In Motion Limited v. Privacy Locked LLC/Nat Collicot, WIPO Case No. D2009-0320 and The Gap, Inc. v. Deng Youqian, WIPO Case No. D2009-0113).

Given Complainant's worldwide presence and its trademark registration, the Panel finds it unlikely that Respondent was not aware of Complainant's rights in said trademark. The Panel considers that the trademark is well known and that with a simple Google search, Respondent could have known the existence of Complainant.

Previous UDRP panels have also found that "the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith" (See section 3.1.4 of the WIPO Overview 3.0). The Disputed Domain Name incorporates Complainant's trademark and adds the term "contracts".

The Panel finds it implausible that Respondent was unaware of Complainant's trademark when it registered the Disputed Domain Name.

As for the use of the Disputed Domain Name, the Administrative Panel observes that it does not lead to any active site, and thus there is no actual use of it. This observation, combined with the previous finding that Respondent has fully incorporated Complainant's trademarks, leads to the conclusion that any plausible actual or contemplated active use of the Disputed Domain Name by Respondent would not be illegitimate.

In light of these factors, the Panel finds that the Disputed Domain Name has been registered and is being used in bad faith under paragraph 4(a)(iii) of the Policy.

PROCEDURAL FACTORS

The complaint was filed with the Czech Arbitration Court (CAC) on July 25, 2023. On July 20, 2023, the CAC transmitted a request for registrar verification to the Registrar by email. The complaint was filed with the CAC on July 25, 2023. On the same day, the CAC notified the deficiency in the complaint and amended it, but managed to fix the situation and commence the administrative proceedings later on the same day.

In accordance with the rules, the CAC formally notified Respondent, and the proceedings started on July 25, 2023. Respondent did not submit any response. Respondent's lack of answer was then notified on August 15, 2023.

The CAC appointed Nathalie Dreyfus as the sole Panellist in this matter on August 15, 2023. The Panel found that it was properly constituted and thus submitted the Statement of Acceptance and Declaration of Impartiality and Independence.

PRINCIPAL REASONS FOR THE DECISION

1/ The Panel finds that the Disputed Domain Name is confusingly similar to Complainant's trademark since it incorporates the Complainant's trademark in its entirety, adding only the generic term "contracts" and a dash.

2/ The Panel finds that Complainant successfully submitted evidence that Respondent lacks rights or legitimate interests in the disputed domain name, as he is not associated with the Complainant, is not authorized to use the "ARCELORMITTAL" trademark, and is not commonly known by "arcelormittal-contracts".

3/ The Panel finds that Respondent knew or should have known Complainant's ARCELORMITTAL trademark when he registered the Disputed Domain Name. Finally, the Panel concludes that no use of the Disputed Domain Name could be made in good faith.

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the Disputed Domain Name, <arcelormittal-contracts.com> be transferred to Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

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

PANELLISTS

Name	Nathalie Dreyfus
------	-------------------------

DATE OF PANEL DECISION **2023-08-29**

Publish the Decision
