

## Decision for dispute CAC-UDRP-105720

Case number	<b>CAC-UDRP-105720</b>
Time of filing	<b>2023-08-22 09:48:10</b>
Domain names	<b>arcelormittalsourcing.com</b>

### Case administrator

Name	<b>Olga Dvořáková (Case admin)</b>
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### Complainant

Organization	<b>ARCELORMITTAL</b>
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### Complainant representative

Organization	<b>NAMESHIELD S.A.S.</b>
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### Respondent

Name	<b>roseM MARY</b>
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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

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

#### 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 tons crude steel made in 2021. It is the owner of the international trademark n° 947686 ARCELORMITTAL, registered on August 3, 2007.

The disputed domain name <**arcelormittalsourcing.com**> was registered on August 15, 2023. It resolves to a parking page. MX servers are configured.

#### PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

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## 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).

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## 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).

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## 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).

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## 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.

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## PRINCIPAL REASONS FOR THE DECISION

### Legal Grounds

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

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

- (1) the domain name registered by the Respondent is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (2) the Respondent has no rights or legitimate interests in respect of the domain name; and
- (3) the domain name has been registered and is being used in bad faith.

In view of the Respondent's failure to submit a response, the Panel shall decide this administrative proceeding on the basis of the Complainant's undisputed representations pursuant to paragraphs 5(f), 14(a) and 15(a) of the Rules and draw such inferences as it considers appropriate pursuant to paragraph 14(b) of the Rules. The Panel is entitled to accept all reasonable allegations set forth in a complaint; however, the Panel may deny relief where a complaint contains mere conclusory or unsubstantiated arguments. See WIPO Jurisprudential Overview 3.0 at ¶ 4.3.

As to the first element, the Panel finds that the disputed domain name <arcelormittalsourcing.com> is confusingly similar to the Complainant's very well-known trademark ARCELORMITTAL, since it incorporates the mark in its entirety. The addition of the generic term "sourcing" is not sufficient to distinguish the disputed domain name from the mark. The inconsequential gTLD ".com" may be ignored.

As to the second element, paragraph 4(c) of the Policy sets out three illustrative circumstances as examples which, if established by the Respondent, shall demonstrate rights to or legitimate interests in the disputed domain name for purposes of paragraph 4(a)(ii) of the Policy, *i.e.*

- (i) before any notice to the Respondent of the dispute, the use by the Respondent of, or

demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or

(ii) the Respondent (as an individual, business or other organization) has been commonly known by the domain name, even if the Respondent has acquired no trademark or service mark rights; or

(iii) the Respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert customers or to tarnish the trademark or service mark at issue.

The Complainant asserts that the Respondent is not known by the disputed domain name; has no rights or legitimate interests in respect of the domain name and is not related in any way to the Complainant; the Complainant does not carry out any activity for, nor has any business with the Respondent; and neither license nor authorization has been granted by the Complainant to the Respondent to make any use of the Complainant's trademark ARCELORMITTAL nor to apply for registration of the disputed domain name.

The disputed domain name was registered on August 15, 2023, many years after the Complainant has shown that its ARCELORMITTAL mark had become very well-known. It resolves to a parking page. MX servers are configured.

These circumstances, together with the Complainant's assertions, are sufficient to constitute a *prima facie* showing of absence of rights or legitimate interests in respect of the disputed domain name on the part of the Respondent. The evidentiary burden therefore shifts to the Respondent to show that it does have rights or legitimate interests in the disputed domain name. See *JUUL Labs, Inc. v. Dryx Emerson / KMF Events LTD*, FA1906001849706 (Forum July 17, 2019). The Respondent has made no attempt to do so.

The Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

As to the third element, given the distinctiveness of the Complainant's trademark and reputation, the Panel infers that the Respondent registered the disputed domain name with full knowledge of the Complainant's trademark. See WIPO Case No. DCO2018-0005, *ArcelorMittal SA v. Tina Campbell* ("The Panel finds that the trademark ARCELORMITTAL is so well-known internationally for metals and steel production that it is inconceivable that the Respondent might have registered a domain name similar to or incorporating the mark without knowing of it.").

Further, although the disputed domain name resolves to a parking page and the Respondent has not demonstrated any activity in respect of the disputed domain name, the Panel considers it is not possible to conceive of any plausible actual or contemplated active use of the disputed 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. See for instance WIPO Case No. D2000-0003, *Telstra Corporation Limited v. Nuclear Marshmallows*.

Finally, the fact that MX servers are configured suggests that the disputed domain name may be actively used for email purposes. See CAC Case No. 102827, *JCDECAUX SA v. Handi Hariyono* ("There is no present use of the disputed domain name but there are several active MX records connected to the disputed domain name. It is concluded that it is inconceivable that the Respondent will be able to make any good faith use of the disputed domain name as part of an e-mail address.").

Thus, the Panel concludes that the Respondent has registered the disputed domain name and is using it in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **arcelormittalsourcing.com**: Transferred

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## PANELLISTS

Name **Alan Limbury**

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DATE OF PANEL DECISION **2023-09-15**

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Publish the Decision

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