

Decision for dispute CAC-UDRP-105721

Case number	CAC-UDRP-105721
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Time of filing	2023-08-22 07:27:14
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Domain names	arcelormlttel.com
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Case administrator

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

Organization	ARCELORMITTAL
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Complainant representative

Organization	NAMESHIELD S.A.S.
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Respondent

Organization	arcelormlttel
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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, ArcelorMittal, owns the international trademark number 947686, ARCELORMITTAL, registered on 3 August 2007.

FACTUAL BACKGROUND

The Complainant is the largest steel producing company in the world and the market leader in steel for use in automotive, construction, household appliances and packaging. It owns the trademark, ARCELORMITTAL, which predates the registration of the disputed domain name. It has owned the domain name <arcelormittal.com> since 27 January 2006.

The disputed domain name <arcelormlttel.com> was registered on 2 August 2023. It resolves to a parking page. MX servers are configured.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant asserts that the disputed domain name is confusingly similar to its trademark, ARCELORMITTAL. It states that the obvious misspelling of its trademark is typosquatting, intended to create confusing similarity between its trademark and the disputed domain name.

The Complainant also asserts that the Respondent has no rights or legitimate interests in the disputed domain name and states that:

- i. the Respondent is not identified in the Whois database as the disputed domain name;
- ii. the Respondent is not related in any way with the Complainant and the Complainant does not carry out any activity for and has no business with the Respondent;
- iii. the Respondent is not licensed or authorised to make use of the Complainant's trademark ARCELORMITTAL; and
- iv. the Respondent has not used and has no demonstrable plan to use the disputed domain name.

The Complainant contends that the disputed domain name was registered and is being used in bad faith and asserts that:

- i. the disputed domain name is confusingly similar to its distinctive and widely known trademark, ARCELORMITTAL;
- ii. the misspelling of the trademark was intentionally designed to be confusingly similar with the Complainant's trademark;
- iii. the disputed domain name points to a parking page and it is not possible to conceive of any legitimate use of the domain name by the Respondent that would not infringe the Complainant's rights; and
- iv. the disputed domain name has been set up with MX records, which suggests that it may be actively used for email purposes (see CAC Case No. 102827, *JCDECAUX SA v. Handi Hariyono*).

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

Paragraph 4(a) of the Policy requires the Complainant to prove each of the following three elements:

- i. the disputed domain is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights;
- ii. the Respondent has no rights or legitimate interests in the disputed domain name; and
- iii. the disputed domain name has been registered and used in bad faith.

A. IDENTICAL OR CONFUSINGLY SIMILAR

Ignoring the top-level suffix ".com", the only difference between the disputed domain name and the Complainant's trademark, ARCELORMITTAL, is the substitution of the letters "l" for "i" and "e" for "a" in the MITTAL part of the mark. Visually the Complainant's trademark can be recognised in the disputed domain name.

The Panel concludes that the disputed domain name is confusingly similar to the Complainant's trademark and that the requirements of Paragraph 4(a)(i) of the Policy have been met.

B. NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has provided evidence to show that it owns the trademark, ARCELORMITTAL, and has made out a prima facie case that the Respondent lacks rights or legitimate interest in the disputed domain name. The burden of proof now shifts to the Respondent to show that he has relevant rights.

The Respondent has not filed a Response, nor challenged any of the Complainant's assertions. The Respondent is not commonly known as the disputed domain name, nor authorised to use the Complainant's trademark or carry out any business for the Complainant. The disputed domain name resolves to a parking page and there is no evidence indicating that the Respondent has any relevant rights or legitimate interests. Considering these factors, the Panel finds that the Respondent has no rights or legitimate interest in the disputed domain name and that the requirements of paragraph 4(a)(ii) of the Policy have been met.

C. REGISTERED AND BEING USED IN BAD FAITH

The Complainant's trademark ARCELORMITTAL is well known and predates the registration of the disputed domain name by many years. The obvious misspelling of the trademark ARCELORMITTAL in the disputed domain name <arcelormittel.com>, appears intentionally designed to be confusingly similar with the Complainant's mark. It is inconceivable that the Respondent did not know of the Complainant and its rights when he registered the disputed domain name.

The disputed domain name resolves to a parking page. The passive holding of the disputed domain name by the Respondent may amount to bad faith registration and use. See WIPO Case No. D2000-0003, Telstra Corporation Limited v. Nuclear Marshmallows.

In the present case:

- the Complainant's trademark is well-known and enjoys a strong reputation;
- a privacy service was used to hide the Respondent's true identity;
- the Respondent has not filed a Response to the Complaint nor provided any evidence of actual or contemplated good faith use;
- the obvious misspelling of the Complainant's trademark indicates an intention on the part of the Respondent to confuse internet users into thinking that the Respondent is in some way connected to the Complainant and its well-known trademark;
- MX records have been set up, which suggests that the disputed domain name may be actively used for e-mail purposes; and
- it is impossible to conceive of any plausible actual or contemplated use of the disputed domain name by the Respondent that would not infringe the Complainant's rights.

Taking these factors into account, the Panel concludes that the disputed domain name was both registered and is being used in bad faith and that the requirements of paragraph 4(a)(iii) of the Policy have been met.

Accepted

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

- 1. **arcelormlttel.com**: Transferred

PANELLISTS

Name	Veronica Bailey
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DATE OF PANEL DECISION	2023-09-22
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Publish the Decision