

Decision for dispute CAC-UDRP-105736

Case number **CAC-UDRP-105736**

Time of filing **2023-08-28 12:42:59**

Domain names **mittalmetallic.com**

Case administrator

Name **Olga Dvořáková (Case admin)**

Complainant

Organization **ARCELORMITTAL**

Complainant representative

Organization **NAMESHIELD S.A.S.**

Respondent

Name **haiyoom mohideen**

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 owns several trademarks including the wording "MITTAL" in several countries, including American countries, such as:

- European trademark MITTAL STEEL n° 4233301 registered since January 7th, 2005
- European trademark MITTAL® n° 3975786 registered on December 1st, 2005
- International trademark MITTAL® n° 1198046 registered on December 5th, 2013.

The Complainant also owns numerous domain names portfolio containing the same wording MITTAL®, such as the domain name <mittalsteel.com> registered since January 3rd, 2003, <arcelormittal.com> registered since January 27th, 2006 and <mittalmetal.com> registered since January 5th, 2019.

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

FACTUAL BACKGROUND

ARCELORMITTAL (the Complainant) is a company specialized in steel producing in the world. 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 59 million tons crude steel made in 2022. It holds sizeable captive supplies of raw materials and operates extensive distribution networks.

The Complainant also owns numerous domain names portfolio containing the same wording MITTAL®, such as the domain name <mittalsteel.com> registered since January 3rd, 2003, <arcelormittal.com> registered since January 27th, 2006 and <mittalmetal.com> registered since January 5th, 2019.

The Complainant states that the disputed domain name <mittalmetallic.com> is confusingly similar to its trademark MITTAL and MITTAL STEEL.

The Complainant asserts that the addition of the term “METALLIC” is not sufficient to escape the finding that the disputed domain name is confusingly similar to the trademark. It does not change the overall impression of the designation as being connected to the Complainant’s trademark. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant and its trademark. It is well-established that “a domain name that wholly incorporates a Complainant’s registered trademark may be sufficient to establish confusing similarity for purposes of the UDRP”. WIPO Case No. D2003-0888, Dr. Ing. h.c. F. Porsche AG v. Vasiliiy Terkin.

So, the disputed domain name is in the view of the Complainant confusingly similar to Complainant’s trademark MITTAL.

The Complainant asserts that the Respondent is not known as the disputed domain name.

The Complainant contends that the 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.

The Complainant contents that neither license nor authorization has been granted to the Respondent to make any use of the Complainant’s trademark MITTAL, or apply for registration of the disputed domain name by the Complainant.

The disputed domain name resolves to a parking page and the MX servers are configured. Complainant contends that Respondent did not make any legitimate use of the disputed domain name, and it confirms that Respondent has no demonstrable plan to use the disputed domain name. It proves in the view of the Complainant a lack of legitimate interests in respect of the disputed domain name except in order to create a likelihood of confusion with the Complainant and its trademark.

Thus, in accordance with the foregoing, the Complainant contends that the Respondent has no right or legitimate interest in respect of the disputed domain name.

The Complainant contends that the disputed domain name is confusingly similar to its distinctive trademark MITTAL.

The Complainant’s trademark MITTAL is widely known. Past panels have confirmed the notoriety of the trademark MITTAL.

Given the distinctiveness of the Complainant’s trademarks and reputation, it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant’s trademark.

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

PARTIES CONTENTIONS

Complainant:

The Complainant contends that the requirements of the Policy have been met (see factual backgrounds) and that the disputed domain name should be transferred to it.

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

To succeed in its claim, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied:

- (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 with respect to the disputed domain name; and
- (iii) The disputed domain name has been registered and is being used in bad faith.

1. Identical or Confusingly Similar

The Complainant has established the fact that it has valid trademark rights for "MITTAL" or "MITTAL STEEL".

The Panel finds that the disputed domain name <mittalmetallic.com> is confusingly similar to the Complainant's MITTAL and MITTAL STEEL trademarks, as it incorporates the first trademark in its entirety combined with the generic term "metallic", synonymous of "steel". Numerous UDRP panels have recognized that incorporating a trademark in its entirety can be sufficient to establish that the disputed domain name is at least confusingly similar to a registered trademark.

It is well established that "a domain name that wholly incorporates a Complainant's registered trademark may be sufficient to establish confusing similarity for purposes of the UDRP". See WIPO Case No. D2003-0888, Dr. Ing. h.c. F. Porsche AG v. Vasiliiy Terkin.

The Panel therefore considers the disputed domain name to be confusingly similar to the trademark "MITTAL" in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

2. Rights or Legitimate Interests

The Respondent has no rights or legitimate interests in the disputed domain name, since the Respondent is not a licensee of the Complainant nor has the Complainant granted any permission or consent to the Respondent to use its trademarks or designations confusingly similar to its trademarks. Furthermore, the Respondent has no rights or legitimate interests in the disputed domain name, since there is no indication that the Respondent is commonly known by the name "MITTAL" or that the Respondent is using the disputed domain name in connection with a bona fide offering of goods or services.

The Panel therefore finds that the Respondent does not have rights or legitimate interests in the disputed domain name.

3. Registered and Used in Bad Faith

The Panel does not believe that the application of a domain name being highly similar to a distinctive and well-known trademark as the one from Complainant, with the addition of the generic term "metallic" describing the main field of activity of the Complainant, is accidental.

The Panel finds that the trademark MITTAL 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 trademark without knowing of it.

The Panel does not see any conceivable legitimate use that could be made by the Respondent of this particular domain name without the Complainant's authorization.

Besides, the term "MITTAL" has no meaning, except in relation to the Complainant.

The disputed domain name resolves to a common "parking page" of the registrar indicating that the domain is already registered but one may use the broker services indicating that it may be for sale. 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 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.

The Panel therefore finds, that the incorporation of a famous mark into a domain name in its entirety, coupled with an inactive website, is evidence of bad faith registration and use in this case.

The Panel, therefore, considers the disputed domain name to have been registered and used in bad faith in accordance with 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. **mittalmetallic.com**: Transferred

PANELLISTS

Name	David-Irving Tayer
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DATE OF PANEL DECISION 2023-10-01

Publish the Decision
