

Decision for dispute CAC-UDRP-105814

Case number CAC-UDRP-105814

Time of filing 2023-09-27 09:47:36

Domain names arcelromittals.com

Case administrator

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

Complainant

Organization ARCELORMITTAL

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Organization ltd inqi

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 the owner of the international trademark #947686 ARCELORMITTAL® registered on August 3, 2007.

The Complainant claims that its ARCELORMITTAL trademark is well-known and distinctive.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Complainant, ARCELORMITTAL S.A., is a company specialized in steel producing and the largest steel producing company in the world. It 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 an important domain names portfolio, such as the domain name <arcelormittal.com> registered since January 27, 2006.

The disputed domain name <arcelromittals.com> was registered on September 14, 2023 and resolves to an inactive page.

PARTIES CONTENTIONS

The Complainant's contentions are summarised below.

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).

The Complainant claims rights in the ARCELORMITTAL mark through its trademark registration. By virtue of its trademark registrations, Complainant has proved that it has rights in the mark under paragraph 4(a) of the Policy. See Avast Software s. r. o. v Milen Radumilo, 102384, (CAC 2019-03-12).

The Complainant points out that the obvious misspelling of the Complainant's trademark ARCELORMITTAL®, i.e. the inversion of the letters "O" and "R" and the addition of the letter "S", is characteristic of a typosquatting practice intended to create confusing similarity between the Complainant's trademark and the disputed domain name. Moreover, the Complainant contends that the addition of the gTLD suffix ".COM" does not change the overall impression of the designation as being connected to the trademark ARCELORMITTAL®. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant and its trademark.

The Panel is of the view that it is commonly agreed that typosquatting constitutes confusion and the prominent part of the disputed domain name in the present case is at least visually confusingly similar to Complainant's ARCELORMITTAL mark, see Intesa Sanpaolo S.p.A. vs Milen Radumilo, 103410 (CAC 2020-12-17). In light of the ".com" generic top-level domain ("gTLD"), the Panel believes that it does not prevent the finding of confusing similarity. See Belron International Limited v Andrea Paul, 103381, (CAC 2020-12-09).

For the foregoing reasons, the Panel finds the Complainant has satisfied 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). More specifically, the Complainant must first make a prima facie case that the Respondent lacks rights and legitimate interests in the disputed domain name, and the burden of prove then shifts to the Respondent to show it does have rights or legitimate interests. See PepsiCo, Inc. v Smith power production, 102378, (CAC 2019-03-08) ("The Panel finds that the Complainant has made out a prima facie case that arises from the considerations above. All of these matters go to make out the prima facie case against the Respondent. As the Respondent has not filed a Response or attempted by any other means to rebut the prima facie case against it, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.").

The Complainant asserts that the Respondent is not identified in the Whois database as the disputed domain name and is not known as the disputed domain name. The Complaint also contends that the Respondent is not related in any way with the Complainant and is not authorized or licensed to use of the trademark ARCELORMITTAL as well as the disputed domain name.

In addition, the Complainant also claims that the disputed domain name is a typosquatted version of the trademark ARCELORMITTAL®. Typosquatting is the practice of registering a domain name in an attempt to take advantage of Internet users' typographical errors and can evidence that a respondent lacks rights and legitimate interests in the domain name.

Furthermore, the disputed domain name is being passively held by the Respondent given that there is no active content resolved by the disputed domain name. The Complainant contends that the Respondent is not making a bona fide offering of goods or services by means of the disputed domain name, or a legitimate non-commercial or fair use of it.

The Panel finds that the Complainant has established a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name. The burden of proof has been shifted to the Respondent to prove that it has right or legitimate interests to the disputed domain name. However, the Respondent has not submitted any response to rebut the assertion.

For the foregoing reasons, the Panel finds the Complainant has satisfied 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).

The Complainant reiterates that its trademark ARCELORMITTAL® is widely known and the notoriety of the trademark has been confirmed by the past panels. The Complainant further contends that given the distinctiveness of the Complainant's trademark and reputation, it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's trademark, see *ArcelorMittal SA v. Tina Campbell*, DCO2018-0005, (WIPO 2018-03-28). Moreover, the Complainant states the misspelling of the trademark ARCELORMITTAL® was intentionally designed to be confusingly similar with the Complainant's trademark. The Panel accepts that ARCELORMITTAL is a well-known mark and in the absence of Respondent's response, it is reasonable to believe that the Respondent had actual knowledge of the mark when he registered the disputed domain name.

Furthermore, the disputed domain name is being passively held by the Respondent. The Complainant contends that the 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 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 accepts that passively holding a domain name that is identical or confusingly similar to a famous trademark without proper explanation constitutes bad faith under paragraph 4(b)(iv), see *ARCELORMITTAL (SA) v. Milen Radumilo*, 102379 (CAC 2019-04-18).

For the foregoing reasons, the Panel finds the Complainant has satisfied 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

Having established all three elements required under the UDRP Policy, the Panel concludes that relief shall be granted.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **arcelromittals.com**: Transferred

PANELLISTS

Name	Mr Paddy TAM
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DATE OF PANEL DECISION	2023-10-30
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Publish the Decision
