

Decision for dispute CAC-UDRP-105825

Case number CAC-UDRP-105825

Time of filing 2023-10-02 10:42:28

Domain names arcelormittallib.org

Case administrator

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

Complainant

Organization ARCELORMITTAL

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Organization Elvina Joy Samuels

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 n° 947686 ARCELORMITTAL registered on August 3, 2007. The Complainant further owns domain name <arcelormittal.com> registered since January 27, 2006. The disputed domain name <arcelormittallib.org> was registered on July 12, 2023.

PARTIES CONTENTIONS

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT

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 is the owner of the international trademark ARCELORMITTAL registered on August 3, 2007 and owner of the domain name <arcelormittal.com> registered since January 27, 2006. The disputed domain name <arcelormittallib.org> was registered on July 12, 2023 and redirects to a site reproducing the Complainant's trademark and substantial parts of the official website such as its appearance or articles. Besides, MX servers are configured. The Complainant states that the disputed domain name is confusingly similar to its trademark ARCELORMITTAL and its domain names associated, as it includes the Complainant's trademark in its entirety. The addition of the term "LIB" 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. Additionally, this term is short for "LIBERIA", referring to the Complainant's Liberian subsidiary, and therefore reinforces the risk of confusion.

Furthermore, the Complainant contends that the addition of Generic Top-Level Domain suffix ".ORG" does not change the overall impression of the designation as being connected to its trademark. The Complainant states that the Respondent has no rights or legitimate interests in respect of the domain name.

The Respondent is not identified in the Whois database as the disputed domain name and thus is not commonly known by a disputed domain name. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name and 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. Neither license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark or apply for registration of the disputed domain name by the Complainant.

The disputed domain reproduces substantial parts of the Complainant's official website with its trademark. The Respondent is thus clearly aware of the Complainant and its business as it has copied its official website. Using a confusingly similar domain name that resolves to a similar webpage is not a bona fide offering of goods or services.

The Complainant finally contends that the disputed domain name was registered and is being used in bad faith. The disputed domain name is confusingly similar to the Complainant's distinctive trademark. Past panels have confirmed the notoriety of the trademark ARCELORMITTAL in the following cases: CAC Case No. 101908, ARCELORMITTAL v. China Capital and CAC Case No. 101667, ARCELORMITTAL v. Robert Rudd. Given the distinctiveness of the Complainant's trademark and reputation, it is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademark. Furthermore, the disputed domain name redirects to a website reproducing substantial parts of the Complainant's website with its trademark. The Complainant argues that the Respondent is attempting to attract Internet users to its website for commercial gain by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of its website and the unauthorized e-mail address. Finally, the disputed domain name has been set up with MX records which suggests that it may be actively used for e-mail purposes. This is also indicative of bad faith registration and use because any e-mail emanating from the disputed domain name could not be used for any good faith purpose.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is 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

For the Complainant to succeed it must prove, within the meaning of paragraph 4(a) of the Policy, that:

- The disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- The Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- The disputed domain name has been registered and is being used in bad faith.

I. Identical or Confusingly Similar

The Complainant has established the fact that it has valid rights for the international trademark n° 947686 ARCELORMITTAL registered on August 3, 2007, and that it owns domain name including the same distinctive wording ARCELLORMITTAL. The disputed domain name has been registered on July 12, 2023, i.e. more than 15 years after the ARCELORMITTAL trademark registration, and wholly incorporates the Complainant's trademark ARCELORMITTAL. The term "LIB" in the disputed domain name does not distinguish the disputed domain name from the Complainant's trademark. Moreover, this term seems to be an abbreviation for the name of Liberia where the Respondent resides according to the Registrar verification. As the Complainant has a subsidiary in Liberia, the added term "LIB" could strengthen the likelihood of confusion between the disputed domain name and Complainant's trademark. The addition of the geographical top level domain ".ORG" does not change the overall impression of the designation as being connected to Complainant's trademark. The Panel therefore considers the disputed domain name to be confusingly similar to the Complainant's trademark ARCELORMITTAL which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

II. Rights or Legitimate Interests

The Complainant has established a prima facie case (not challenged by the Respondent who did not file any response to the complaint) that the Respondent has no rights or legitimate interests in the disputed domain name. The disputed domain name resolves to a webpage that reproduces the Complainant's trademark and copies substantial parts of the Complainant's website. Such use does not constitute a bona fide offering of goods and services or a legitimate noncommercial fair use. It has not been proved by the Respondent that he has rights or legitimate interests in the disputed domain name, or the Respondent is related with the Complainant. Neither license nor authorization has been proven to be granted to the Respondent to make any use of the Complainant's trademark or apply for registration of the disputed domain name. The Panel therefore considers that the Respondent has no rights or legitimate interests in respect of the disputed domain name within the meaning of paragraph 4(a)(ii) of the Policy.

III. Registered and Used in Bad Faith

Given the distinctiveness of the Complainant's trademark and reputation (as confirmed in several UDRP proceedings in the past - CAC Case No. 101908, ARCELORMITTAL v. China Capital; CAC Case No. 101667, ARCELORMITTAL v. Robert Rudd) it is evident that the Respondent had the Complainant and its trademark in mind when registering the disputed domain name containing the entire Complainant's trademark and (geographical) term "LIB" referring to the territory where the Complainant's subsidiary operates. The Panel considers such use of the Complainant's trademark as the evidence of bad faith registration and use. Furthermore, the website in connection with the disputed domain name resolves to a webpage with the reproduction of the Complainant's trademark and copy of the substantial parts of the Complainant's official website. The incorporation of a famous trademark into a domain name, coupled with a website copying the official Complainant's website, may be evidence of bad faith registration and use as well. The Panel therefore considers that 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 Panel finally considers that the Complainant has shown that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights, the Respondent has no rights or legitimate interests in respect of the disputed domain name and the disputed domain name has been registered and is being used in bad faith. The Complainant has thus established all three elements of paragraph 4(a) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. arcelormittallib.org: Transferred

PANELLISTS

| | |
|------|-------------|
| Name | Petr Hostaš |
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DATE OF PANEL DECISION 2023-11-01

Publish the Decision
