

Decision for dispute CAC-UDRP-105819

Case number	CAC-UDRP-105819
Time of filing	2023-09-29 09:41:06
Domain names	arcelormittal-contractors.com

Case administrator

Name	Olga Dvořáková (Case admin)
------	------------------------------------

Complainant

Organization	ARCELORMITTAL
--------------	----------------------

Complainant representative

Organization	NAMESHIELD S.A.S.
--------------	--------------------------

Respondent

Name	Anonymous Anonymous
------	----------------------------

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 International Registration no. 947686 "ARCELORMITTAL", registered on August 3, 2007.

The Complainant owns the domain name <arcelormittal.com>.

The Respondent registered the disputed domain name on September 19, 2023. Currently, the disputed domain name resolves to a parked webpage with "Pay-Per-Click" ("PPC") links.

FACTUAL BACKGROUND

ARCELORMITTAL 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.

PARTIES CONTENTIONS

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

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

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires a complainant to show that a domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. The Complainant has provided evidence that it owns the trademark registrations of the ARCELORMITTAL mark.

In this case, the disputed domain name contains the Complainant's trademark in its entirety with the addition of the generic descriptive suffix "-contractors". It is trite that the addition/omission of hyphens to a distinctive trademark would not prevent a finding of confusing similarity. It is well-established that where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. (see WIPO Overview 3.0, section 1.8).

In addition, the disputed domain name comprises the Complainant's ARCELORMITTAL mark in its entirety and the generic Top-Level Domain ("gTLD") ".com". It is well established that the addition of a gTLD ".com" does not avoid confusing similarity between the Complainant's trademark and the disputed domain name (see WIPO Overview 3.0, section 1.11.1).

Consequently, the Panel finds that the Complainant has shown that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

Once the complainant establishes a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name, the burden of production shifts to the respondent to show that it has rights or legitimate interests in respect to the disputed domain name (see WIPO Overview 3.0, section 2.1).

In the present case, the Complainant has demonstrated *prima facie* that the Respondent lacks rights or legitimate interests in respect of

the disputed domain name and the Respondent has failed to assert any such rights or legitimate interests.

The Complainant has provided evidence that it owns trademark registrations of the ARCELORMITTAL mark long before the date that the disputed domain name was registered and that it is not affiliated with nor has it licensed or otherwise permitted the Respondent to use the Complainant's trademark (see *LEGO Juris A/S v. DomainPark Ltd, David Smith, Above.com Domain Privacy, Transure Enterprise Ltd, Host master*, WIPO Case No. D2010-0138).

The Complainant also provided evidence that the Respondent is not commonly known by the disputed domain name (NAF Case No. FA 1781783, *Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group <bobsfromsketchers.com>* ("Here, the WHOIS information of record identifies Respondent as "Chad Moston / Elite Media Group." The Panel therefore finds under Policy ¶ 4(c) (ii) that Respondent is not commonly known by the disputed domain name under Policy ¶ 4(c) (ii).")) (see WIPO Overview 3.0, section 2.3).

It has also become established that UDRP panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users. (See WIPO Overview, section 2. 9). In the present case, the offered links are competing with the goods and services of Complainant.

Further, the Respondent did not submit a Response in the present case and did not provide any explanation or evidence to show rights or legitimate interests in the disputed domain name which would be sufficient to rebut the Complainant's *prima facie* case.

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

C. Registered and Used in Bad Faith

The complainant must also show that the respondent registered and is using the disputed domain name in bad faith (see Policy, paragraph 4(a)(iii)). Paragraph 4(b) of the Policy provides circumstances that may evidence bad faith under paragraph 4(a)(iii) of the Policy.

The Complainant provided evidence that the disputed domain name resolves to a parked webpage containing PPC links.

Further, the disputed domain name incorporates the Complainant's trademark in its entirety with the addition of the generic descriptive suffix "-contractors". Previous UDRP panels ruled that in such circumstances "a likelihood of confusion is presumed, and such confusion will inevitably result in the diversion of Internet traffic from the Complainant's site to the Respondent's site" (see *Edmunds.com, Inc v. Triple E Holdings Limited*, WIPO Case No. D2006-1095). Past UDRP panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users. (See WIPO Overview 3.0, section 2.9).

The Complainant has submitted evidence which shows that the Respondent registered the disputed domain name long after the Complainant registered the ARCELORMITTAL trademark. Given the evidence presented to the Panel, the Panel finds that it is highly likely that the Respondent was aware of the Complainant and its ARCELORMITTAL trademark at the time of registering the disputed domain name and specifically targeted the Complainant and its goodwill.

The Complainant provided evidence showing that the links, such links seem to compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users. The evidence shows that the Respondent is providing PPC links to websites offering goods and services competing with those of the Complainant. Such use by Respondent is also evidence of bad faith registration and use.

In addition, the Respondent did not submit a Response in this proceeding. Under the circumstances of this case, this is an additional indication of the Respondent's bad faith, which was considered by the Panel.

Accordingly, given the particular circumstances of this case, the reputation of the Complainant's trademark, and based on the evidence presented to the Panel, including (1) the registration of the disputed domain name long after the registration of the Complainant's trademark, (2) the incorporation of the Complainant's trademark in its entirety in the disputed domain name and confusing similarity with the Complainant's trademark, (3) the Respondent's use of the webpage which contains PPC links with links intending to compete with Complainant, and, (4) the failure of the Respondent to submit a response, the Panel draws the inference that the disputed domain name was registered and is being used in bad faith.

Accordingly, having regard to the circumstances of this particular case, the Panel finds that the Complainant has met its burden under 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. **arcelormittal-contractors.com**: Transferred

PANELLISTS

Name **Jonathan Agmon**

DATE OF PANEL DECISION 2023-11-05

Publish the Decision