

Decision for dispute CAC-UDRP-105980

Case number CAC-UDRP-105980

Time of filing 2023-11-16 09:21:38

Domain names arcelormittsal.com

Case administrator

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

Complainant

Organization ARCELORMITTAL

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Organization Southern Cross Developers

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 registration no. 947686 "ARCELORMITTAL", granted on August 3, 2007.

Likewise, the Complainant also owns the domain name <arcelormittal.com>, registered on January 27, 2006.

FACTUAL BACKGROUND

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

The Complainant – a company specialized in the production and commercialization of steel all around the world – owns a portfolio of brands including the international trademark registration no. 947686 "ARCELORMITTAL", granted on August 3, 2007 and duly renewed, in classes 6, 7, 9, 12, 19, 21, 39, 40, 41 and 42.

The Complainant also owns the domain name <arcelormittal.com> since 2006.

The Respondent has registered the disputed domain name <arcelormittsal.com> on November 9, 2023, which, as of this day,

resolves to a parking page with commercial links.

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

THE DISPUTED DOMAIN NAME IS IDENTICAL OR CONFUSINGLY SIMILAR TO THE COMPLAINANT'S TRADEMARK

The Panel finds that the disputed domain name is confusingly similar to the trademark "ARCELORMITTAL" and to the relative domain name <arcelormittal.com> registered by the Complainant, which has proven to have prior rights since 2006-2007.

In particular, the Panel agrees that the mere addition of letter "s" in the verbal portion MITTAL is not sufficient to avoid the confusingly similarity of the disputed domain with the trademark ARCELORMITTAL and the domain name <arcelormittal.com>.

In this regard, it shall be underlined that many WIPO and CAC decisions – even involving the present Complainant, such as the ones mentioned in the Complaint – stated how the typosquatting practice (the slight spelling variation of a trademark) does not prevent a disputed domain name from being confusing similar to the Complainant's trademark (WIPO - D2016-1853 - Arcelormittal S.A. v. Cees Willemsen - <arclormittal.com> and <arelormittal.com>; CAC - 101265 - Arcelormittal v. Fetty wap LLC Inc - <arcelormitals.com>; CAC - 101267 - Arcelormittal v. davd anamo - <arcelormittal.com>). The same case lies before us in this matter.

THE RESPONDENT HAS NO RIGHTS OR LEGITIMATE INTERESTS IN RESPECT OF THE DISPUTED DOMAIN NAME

According to the information provided by the Complainant, the Respondent is not affiliated nor authorized by the Complainant in any way. Likewise, the Complainant neither licensed nor authorized the Respondent to make any use of its trademark "ARCELORMITTAL", or to apply for registration of the disputed domain name on behalf of the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent.

It is undeniable that Complainant is only required to make out a prima facie case that the Respondent lacks rights or legitimate

interests in respect of the disputed domain name. Once such prima facie case is made, Respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a) (ii) of the Policy.

Given all the above and taken into account the fact that the Respondent did not provide any response within the present proceeding, the Panel accepts the contentions of the Complainant that the Respondent has no such rights or legitimate interests in <arcelormittsal.com>.

THE DISPUTED DOMAIN NAME HAS BEEN REGISTERED AND IS BEING USED IN BAD FAITH

The Panel finds that the Complainant successfully submitted prima facie evidence that the Respondent has made no use of, or demonstrable preparations to use, neither of the disputed domain name in connection with a bona fide offering of goods or services, nor is making a legitimate non-commercial or fair use of the disputed domain name.

The disputed domain name represents a clear example of typosquatting, an activity which is considered evidence of bad faith by the consistent case law in domain name disputes (see, among others, NAF case no. FA 157321 Computerized Sec. Sys., Inc. v. Hu).

In the absence of a response from Southern Cross Developers (Steven Buckley) and given the reputation of the Complainant and its trademark, the Panel infers that the Respondent had the Complainant's trademarks "ARCELORMITTAL" in mind when registering the disputed domain name, especially taking account that <arcelormittsal.com> redirects to a parking page with commercial links: as indicated in WIPO Case No. D2018-0497, StudioCanal v. Registration Private, Domains By Proxy, LLC / Sudjam Admin, Sudjam LLC, "... whether the commercial gain from misled Internet users is gained by the Respondent or by the Registrar (or by another third party), it remains that the Respondent controls and cannot (absent some special circumstance) disclaim responsibility for, the content appearing on the website to which the disputed domain name resolve [...] so the Panel presumes that the Respondent has allowed the disputed domain name to be used with the intent to attract Internet users for commercial gain, by creating a likelihood of confusion with the Complainant's trademark as to the source, affiliation, or endorsement of the Respondent's website to which the disputed domain name resolves. Accordingly, the Panel finds that the disputed domain name was registered and is being used in bad faith".

Consequently, the Panel believes that the same was registered and is being used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **arcelormittsal.com**: Transferred

PANELLISTS

Name	Tommaso La Scala
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DATE OF PANEL DECISION 2023-12-18

Publish the Decision
