

Decision for dispute CAC-UDRP-105984

Case number	CAC-UDRP-105984
Time of filing	2023-11-16 09:22:10
Domain names	mittaltradegroup.com

Case administrator

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

Organization	ARCELORMITTAL
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Complainant representative

Organization	NAMESHIELD S.A.S.
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Respondent

Organization	Grace n Bless Infotech
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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 several trademarks including the word MITTAL, such as:

- The European word trademark MITTAL registered on 1 December 2005 under No. 3975786 for goods and services of the classes 6 and 40;
- The international trademark MITTAL registered on 5 December 2013 under No. 1198046 for goods and services of the classes 6 and 40.

FACTUAL BACKGROUND

According to the Complainant, ArcelorMittal is a multinational specialized in steel production and is a market leader in steel for use in automotive, construction, household appliances and packaging. The Complainant asserts to hold a substantial captive supply of raw materials and operates extensive distribution networks.

The Complainant is the owner of a number of domain names, including the wording MITTAL, such as the domain name <mittal.eu> registered on 23 February 2010 and <arcelormittal.com> registered on 27 January 2006.

The disputed domain name <mittaltradegroup.com> was registered on 30 October 2023. The Complainant demonstrates that the

website that is operated under the disputed domain name resolves to a website under construction. In addition, the Complainant shows that MX servers are configured for the disputed domain name, which suggests that the disputed domain name may be actively used for e-mail purposes.

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 Respondent logged in to the online platform but never filed any statements regarding the complaint.

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

1. The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has right

According to the Complainant, the disputed domain name incorporates in full the Complainant's MITTAL trademark. The Complainant asserts that the addition of the generic terms TRADE and GROUP does not prevent the disputed domain name from being confusingly similar to its MITTAL trademark.

The generic Top-Level Domain extension of the disputed domain name, in this case ".com", is typically disregarded under the confusing similarity test, as it is a standard requirement for registration.

Therefore, the Complainant concludes, and the Panel agrees, that the disputed domain name is confusingly similar to the Complainant's trademark.

2. The Respondent has no rights or legitimate interests in respect of the domain name

The Complainant asserts that the name of the Respondent listed in the Whois database differs from the disputed domain name. According to past panels, a Respondent is not commonly known by a disputed domain name if the Whois information is not similar to the disputed domain name (see Forum 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).").

The Complainant states that the Respondent is not affiliated with in any way nor authorized or licensed by the Complainant to make

any use of the Complainant's trademark, or apply for registration of the disputed domain name. In addition, the Complainant asserts that it does not carry out any activity for, nor has any business with the Respondent.

The Complainant further states that the disputed domain name resolves to a website under construction. The Complainant contends that the Respondent did not make any use of the disputed domain name since its registration, nor that it has any demonstrable plan to use the disputed domain name. Past panels have held that a lack of content shows a lack of bona fide offering of goods or services or a legitimate non-commercial or fair use (see Forum Case No. FA 1773444, Ashley Furniture Industries, Inc. v. Joannet Macket / JM Consultants).

The Panel finds that the Complainant has shown that the Respondent is not commonly known by the disputed domain name and has not made legitimate use of the disputed domain name for a bona fide offering of goods or services. In lack of any Response from the Respondent, or any other information indicating the contrary, the Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

3. The domain name was registered and is being used in bad faith

The Complainant refers to past panels that have held that the MITTAL trademark is well known (see WIPO Case No. D2018-1086, ArcelorMittal S.A. v. Registrant of lakshmimittal.org, c/o WHOIstrustee.com Limited / Zeus Holding Market Ltd. ("The Domain Name wholly incorporates a well-known mark [MITTAL]" and WIPO Case No. D2010-2049, Arcelormittal v. Mesotek Software Solutions Pvt. Ltd. ("the Complainant's marks MITTAL and MITTAL STEEL have been widely used and are well-known.")).

Consequently, according to the Complainant, given the distinctiveness of the Complainant's trademarks and its worldwide reputation, it is reasonable to infer that the Respondent has registered and used the disputed domain name with full knowledge of the Complainant's trademark.

Furthermore, the Complainant demonstrates that the disputed domain name resolves to a website under construction. The Complainant contends that the Respondent has not demonstrated any activity in respect of the disputed domain name. According to the Complainant, there is no plausible actual or contemplated active use of the domain name by the Respondent that would not be illegitimate. Past panels have held that the incorporation of a famous mark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use (see WIPO Case No. D2000-0003, Telstra Corporation Limited v. Nuclear Marshmallows).

Finally, the Complainant demonstrates that MX servers are configured for the disputed domain name and suggests that the disputed domain name may be actively used for e-mail purposes. Past panels have held that, if there are several active MX records connected to the disputed domain name but there is no other use of the disputed domain name, it is inconceivable that the Respondent will be able to make any good faith use of the disputed domain name (see CAC Case No. 102827, JCDECAUX SA v. Handi Hariyono).

In lack of any Response from the Respondent, the Panel concludes that the Respondent has registered and is using the disputed domain name in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. mittaltradegroup.com: Transferred

PANELLISTS

Name	Tom Heremans
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DATE OF PANEL DECISION 2023-12-20

Publish the Decision
