Decision for dispute CAC-UDRP-106023

Case number	CAC-UDRP-106023
Time of filing	2023-11-30 09:49:49
Domain names	arcelormitta1s.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	ARCELORMITTAL

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Organization	PrivacyGuardian.org Domain Administrator

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 3rd, 2007.

The Complainant also owns, inter alia, the domain name <arcelormittal.com> registered since January 27th, 2006.

FACTUAL BACKGROUND

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.

The disputed domain name was registered on November 24th, 2023 and resolves to an index page. MX servers are configured

PARTIES CONTENTIONS

COMPLAINANT:

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

The disputed domain name <**arcelormitta1s.com**> is confusingly similar to Complainant's trademark ARCELORMITTAL.

The obvious misspelling of the Complainant's trademark ARCELORMITTAL (i.e. the substitution of the letter "L" by the visually similar number "1" 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. Previous panels have found that the slight spelling variations do not prevent a domain name from being confusing similar to the Complainant's trademark. WIPO Case No. D2020-3457, ArcelorMittal (Société Anonyme) v. Name Redacted <arcelormltal.com> ("As the disputed domain name differs from the Complainant's trademark by just two letters, it must be considered a prototypical example of typosquatting – which intentionally takes advantage of Internet users that inadvertently type an incorrect address (often a misspelling of the complainant's trademark) when seeking to access the trademark owner's website. WIPO Overview 3.0 at section 1.9 states that "[a] domain name which consists of a common, obvious, or misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element.").

Furthermore, the addition of the gTLD ".COM" does not change the overall impression of the designation as being connected to the Complainant's trademark. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and its associated domain name.

As recorded in the WIPO Overview 3.0 §1.11.1, "the applicable Top Level Domain ("TDL") in a domain name (e.g., ".com", ".club", ".nyc") is viewed as a standard registration requirement and as such is disregarded under the first element confusion similarity test".

Consequently, the disputed domain name <arcelormitta1s.com> is confusingly similar to Complainant's trademark ARCELORMITTAL.

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

According to WIPO Case No. D2003-0455 Croatia Airlines d. d. v. Modern Empire Internet Ltd., the Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such a prima facie case is made, the 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 UDRP.

There is no evidence that the Respondent is commonly known by the Disputed Domain Name, it is not identified in the Whois database as the disputed domain name and uses privacy protecting services to cover its identity. Past panels have held that a Respondent was not commonly known by a disputed domain name if the Whois information was not similar to the disputed domain name. Thus, the Respondent is not known as the disputed domain name. 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 UDRP ¶ 4(c) (ii).")

The Respondent has no rights or legitimate interests in respect of the disputed domain name <**arcelormitta1s.com**> 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 ARCELORMITTAL, or apply for registration of the disputed domain name.

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. Forum Case No. 1597465, The Hackett Group, Inc. v. Brian Herns / The Hackett Group ("The Panel agrees that typosquatting is occurring, and finds this is additional evidence that Respondent has no rights or legitimate interests under Policy ¶ 4(a)(ii).").

The disputed domain name points to an index page. The Respondent did not use the disputed domain name, and has no

demonstrable plan to use the disputed domain name. Forum Case No. FA 1773444, Ashley Furniture Industries, Inc. v. Joannet Macket / JM Consultants (“The Panel finds that Respondent’s lack of content at the disputed domain shows the lack of a bona fide offering of goods or services or a legitimate noncommercial or fair use per Policy ¶¶ 4(c)(i) and (iii).”).

The Respondent has no right or legitimate interest in respect of the disputed domain name <arcelormitta1s.com>.

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

The Complainant’s trademark ARCELORMITTAL is widely known. Past panels have confirmed the notoriety of the trademark ARCELORMITTAL in the following cases:

- CAC Case No. 101908, ARCELORMITTAL v. China Capital ("The Complainant has established that it has rights in the trademark "ArcelorMittal", at least since 2007. The Complainant's trademark was registered prior to the registration of the disputed domain name (February 7, 2018) and is widely well-known.")
- CAC Case No. 101667, ARCELORMITTAL v. Robert Rudd ("The Panel is convinced that the Trademark is highly distinctive and well-established.")

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.

WIPO Case No. DCO2018-0005, ArcelorMittal SA v. Tina Campbell (“The Panel finds that the trademark ARCELORMITTAL is so well-known internationally for metals and steel production that it is inconceivable that the Respondent might have registered a domain name similar to or incorporating the mark without knowing of it.”).

Moreover, the Complainant states the misspelling of the trademark ARCELORMITTAL was intentionally designed to be confusingly similar with the Complainant’s trademark. Previous UDRP Panels have seen such actions as evidence of bad faith. Forum Case No. FA 877979, Microsoft Corporation v. Domain Registration Philippines ("In addition, Respondent’s misspelling of Complainant’s MICROSOFT mark in the <microssoft.com> domain name indicates that Respondent is typosquatting, which is a further indication of bad faith registration and use pursuant to Policy ¶ 4(a)(iii).").

Furthermore, the disputed domain name points to an index page. 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.

As prior WIPO UDRP panels have held, the incorporation of a famous mark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use.

Please see for instance:

- WIPO Case No. D2000-0003, Telstra Corporation Limited v. Nuclear Marshmallows;
- WIPO Case No. D2000-0400, CBS Broadcasting, Inc. v. Dennis Toeppen.

Finally, the disputed domain name has been set up with MX records which suggests that it may be actively used for email purposes. CAC Case No. 102827, JCDECAUX SA v. Handi Hariyono (“There is no present use of the disputed domain name but there are several active MX records connected to the disputed domain name. It is concluded that it is inconceivable that the Respondent will be able to make any good faith use of the disputed domain name as part of an e-mail address.”).

On those facts, the Complainant contends that Respondent has registered the disputed domain name <arcelormitta1s.com> and is using it in bad faith.

RESPONDENT:

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 registered in 2023 is confusingly similar to the Complainant's well known trade mark (registered as an international mark for metals in 2007) consisting of a mispelling of it, substituting the letter 'L' with the number '1' and adding a letter 's' and the gTLD .com which does not prevent said confusing similarity.

The Respondent is not authorised by the Complainant and there is no evidence that it is commonly known by the disputed domain name.

The Respondent has not replied to this Complaint and has not rebutted the prima facie case evidenced by the Complainant.

The disputed domain name is a typosquatting domain name differing from the Complainant's trade mark by one digit and a letter which demonstrates the Respondent's lack of rights or legitimate interests, actual knowledge of the Complainant and its rights, and registration and use in bad faith.

The disputed domain name does not point to an active site and is being passively held which does not prevent a finding of lack of rights and legitimate interests. Passive holding of a domain name containing a well known mark without explanation is commonly held to be registration and use in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **arcelormitta1s.com**: Transferred

PANELLISTS

Name	**Dawn Osborne**

DATE OF PANEL DECISION 2023-12-27

Publish the Decision