Decision for dispute CAC-UDRP-106077

Case number	CAC-UDRP-106077
Time of filing	2023-12-15 09:36:52
Domain names	acrelorrnittal.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	ARCELORMITTAL

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	ZILLOW GROUP Hale

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 owner of International Registered Trademark No. 947686 for the word mark ARCELORMITTAL, registered on August 3, 2007 in Classes 6, 7, 9, 12, 19, 21, 39, 40, 41 and 42, designated in respect of over 40 territories.

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 tonnes of crude steel having been made in 2022. It holds sizeable supplies of raw materials and operates extensive distribution networks.

In addition to the Complainant's ARCELORMITTAL registered trademark, the Complainant owns a domain name portfolio containing domain names such as <arcelormittal.com>, registered since January 27, 2006.

The disputed domain name was registered on December 11, 2023 and resolves to the Complainant's official website. MX records are configured in the DNS to which the disputed domain name has been delegated.

PARTIES CONTENTIONS

Complainant:

The disputed domain name is confusingly similar to the Complainant's ARCELORMITTAL trademark, subject to an obvious misspelling inverting the letters "r" and "c" and substituting the letter "m" with the visually similar letters "rn". This 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 slight spelling variations do not prevent a domain name from being confusingly similar to a complainant's trademark.

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

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

The Respondent is not identified in the Whois database as the disputed domain name. Previous panels have held that a respondent is not commonly known by a domain name if the Whois information is not similar thereto.

The Respondent is not related to the Complainant in any way. The Complainant does not carry out any activity for the Respondent and has no business with it. Neither license nor authorization has been granted to the Respondent to make any use of the Complainant's ARCELORMITTAL trademark, nor permission to apply for registration of the disputed domain name. The disputed domain name is a typosquatted version of the Complainant's trademark, namely it was registered in an attempt to take advantage of Internet users' typographical errors, and this can evidence that a respondent lacks rights and legitimate interests in the domain name concerned.

The disputed domain name redirects to the Complainant's official website. The Complainant contends that the Respondent is not making a bona fide offering of goods or services by means of the disputed domain name, or a legitimate non-commercial or fair use thereof.

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

The Complainant's trademark is widely known and previous panels have confirmed its notoriety. 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. The misspelling of the Complainant's trademark was intentionally designed to be confusingly similar thereto. Previous panels have seen this as evidence of bad faith.

The disputed domain name redirects to the Complainant's official website, confirming the Respondent's prior knowledge of the Complainant's rights, which is a hallmark of bad faith. The disputed domain name has been registered by the Respondent in an effort to take advantage of the good reputation that the Complainant has built up in its trademark with the sole aim of creating a likelihood of confusion with the Complainant's trademarks and domain name.

The disputed domain name has configured MX records which suggests that the disputed domain name may be used actively for e-mail purposes. 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.

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 Complainant has demonstrated to the Panel's satisfaction that it has UDRP-relevant rights in its ARCELORMITTAL trademark by virtue of its International Registered Trademark No. 947686. The Second-Level Domain of the disputed domain name is a typographical variant of the said trademark where the second and third letters of the trademark have been reversed and the letter "m" has been substituted with the letters "rm". The Panel accepts the Complainant's contention that these two letters, in typescript, are visually similar to a letter "m". Notwithstanding the spelling variation, the Panel considers that the Complainant's mark is fully recognizable in the disputed domain name based upon a straightforward side-by-side comparison. The generic Top-Level Domain in respect of the disputed domain name, namely ".com", is typically disregarded for the purposes of the comparison under the first element analysis of the Policy. In all of these circumstances, the Panel finds that the disputed domain name is confusingly similar to the Complainant's ARCELORMITTAL trademark.

With regard to the second element of the Policy, the Complainant asserts that the Respondent is not commonly known by the disputed domain name (according to a review of the corresponding Whois information), that the Respondent is not affiliated with, licensed nor authorized by the Complainant in any manner, that the Complainant carries out no activity for the Respondent and has no business with it, and that no license nor authorization has been granted to the Respondent by the Complainant to make any use of the Complainant's said trademark or to apply for registration of the disputed domain name. The Complainant notes that the disputed domain name is a typographical variant of its mark, thus may potentially be used to impersonate it, and that MX records are configured such that it may be used to for e-mail purposes.

The Panel finds that the Complainant's assertions, taken together, are sufficient to constitute the requisite prima facie case that the Respondent has no rights and legitimate interests in the disputed domain name (see, for example, section 2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0")). In particular, the Panel accepts that the disputed domain name is more probably than not a typosquatted or intentionally registered typographical variant of the Complainant's trademark which is intended to take unfair advantage of Internet users' typographical errors in typing the Complainant's mark, to cause confusion in the selection of a hyperlink, or otherwise to impersonate the Complainant, including by way of misleading e-mail. The fact that the letters "rn" have been used to simulate the visual appearance of the letter "m" in the Complainant's mark strongly suggests that the disputed domain name is intended for some form of impersonation of the Complainant. It follows that the disputed domain name has been created and is being used for the purposes of typosquatting, and this strongly suggests a lack of rights and legitimate interests on the Respondent's part. Furthermore, the fact that the disputed domain name is delegated to DNS with configured MX records supports the notion that the Respondent may be planning to use it in connection with e-mail which the recipient will mistakenly believe to emanate from the Complainant. Such activity cannot give rise to rights or legitimate interests in the disputed domain name.

The Respondent has not replied to the Complainant's allegations and evidence in this case and has failed to set out any alleged rights or legitimate interests which it might have claimed in the disputed domain name. There are no submissions or evidence on the record which might serve to rebut the Complainant's prima facie case. Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

The Panel finds that the disputed domain name has been registered and is being used in bad faith. The Panel accepts the Complainant's submission that the Complainant's mark is highly distinctive and well-established (see, in particular, the panel's remarks on this topic in ARCELORMITTAL v. Robert Rudd, CAC-UDRP-101667). The Panel finds that the disputed domain name is an intentionally designed typosquatting variant of the Complainant's mark. In these circumstances, it is entirely reasonable to infer that the disputed domain name was registered by the Respondent with knowledge of the Complainant and its rights, and with an intent to target these.

The presence of configured MX records within the DNS servers to which the disputed domain name is delegated strongly indicates to the Panel that the Respondent may be planning to use the disputed domain name for e-mail purposes. Any e-mail referencing or using the disputed domain name (whether deployed as the "from" e-mail address or as the "reply to" address or otherwise referred to in the e-mail content) would impersonate the Complainant, taking unfair advantage of the confusing misspelling of the Complainant's mark, ultimately for the Respondent's commercial benefit. Even if there is no direct evidence of such an e-mail having been sent as yet, the continued registration of the disputed domain name constitutes a threat hanging over the Complainant of which the Complainant is reasonably apprehensive. The existence of such an ongoing threat is typically regarded as an indicator of bad faith under the Policy (see, for example, IP86, LLC v. Name Redacted, WIPO Case No. D2022-4896).

In all of these circumstances, the Panel considers that the Complainant has made out a sufficient case of registration and use in bad faith. The Respondent has not filed a Response in this case and therefore has made no rejoinder to the Complainant's assertions of bad faith registration and use. No explanation has been presented by the Respondent that might have suggested that its actions regarding the disputed domain name were in good faith, and the Panel has been unable to identify any conceivable good faith motivation which the Respondent might have put forward for its registration and use of the disputed domain name.

In all of these circumstances, the Panel finds that the disputed domain name has been 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. **acrelorrnittal.com**: Transferred

PANELLISTS

Name	**Andrew Lothian**

DATE OF PANEL DECISION 2024-01-10

Publish the Decision