Decision for dispute CAC-UDRP-106137

Case number	CAC-UDRP-106137
Time of filing	2024-01-05 09:51:50
Domain names	mittal.shop

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	ARCELORMITTAL

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	MEI WANG

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 “MITTAL” no. 1198046 registered on December 5, 2013.

The Complainant also owns an important domain names portfolio, including the same distinctive wording "MITTAL", such as the domain name <mittalsteel.com> registered on January 3, 2003.

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

The Respondent registered the disputed domain name <mittal.shop> on December 15, 2023. The disputed domain name redirects to a <dan.com> web page where it is offered for sale for USD $1450.

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.

The Respondents failed to file any administratively compliant response.

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).

The Complainant contends that the disputed domain name is identical to its trademark "MITTAL", as it includes the trademark in its entirety without any addition or deletion.

When part of a domain name is identical to a well-known trademark, it increases the likelihood of confusion or association between the domain name holder and the trademark owner. It is, therefore, sufficient to establish identity or confusing similarity for the purposes of the Policy. See Oki Data Americas, Inc. v. ASD, Inc, WIPO Case No. D2001-0902; Dr. Ing. h.c. F. Porsche AG v Vasiliy Terkin, WIPO Case No D2003-003-0888.

The disputed domain name clearly incorporates the Complainant's trademark "MITTAL" in its entirety. The Panel accepts that this increases the likelihood of confusion or association between the holder of the disputed domain name and the Complainant.

The Complainant further contends that the addition of the new gTLD ".SHOP" 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 domain names associated.

It is now a well-established principle in the domain name space that generic top-level domains such as ".com", ".org" or ".net" including ".shop" do not affect the domain name for the purpose of determining whether it is identical or confusingly similar. See F. Hoffmann-La Roche AG v. Macalve e-dominios S.A., WIPO Case No. D2006-0451.

Accordingly, the Panel finds that the disputed domain name is identical to the Complainant's trademark and that paragraph 4(a)(i) of the Policy is satisfied.

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).

A 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 disputed domain name. If the respondent fails to do so, the complainant is deemed to have satisfied paragraph 4(a)(ii) of the UDRP. See Croatia Airlines d.d. v. Modern Empire Internet Ltd, WIPO Case No. D2003-0455.

The Complainant's argument hinges on the assertion that the Respondent lacks rights or legitimate interests in the disputed domain name <mittal.shop>. The key points of their contention are as follows:

Discrepancy in WHOIS Information

The Complainant contends that the Respondent is not identified in the WHOIS database as being associated with the disputed domain name.

Where information in the WHOIS database is not similar to the disputed domain name, a respondent is not commonly known by the disputed domain name. See, for example, Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group <bobsfromsketchers.com> Forum Case No. FA 1781783; The Braun Corporation v. Wayne Loney, Forum Case No. FA 699652.

The Panel accepts this uncontradicted contention, which is also supported by the evidence from the WHOIS database adduced by the Complainant.

Absence of Association with the Complainant

The Complainant contends that the Respondent is not related in any way with the Complainant because:

a. the Complainant does not carry out any activity for nor has any business with the Respondent.
b. the Complainant has not licensed nor authorized the Respondent to make use of its trademark "MITTAL" or apply for registration of the disputed domain name.

The Panel accepts this uncontradicted contention.

Offer to Sell the Domain Name

The Complainant points out that the disputed domain name is being offered for sale for USD $1450, which supports the contention that this as an indication of the Respondent's lack of rights or legitimate interest.

The Panel considers that general solicitation to sell a disputed domain name provides evidence of a respondent's lack of rights and legitimate interests in a domain name. See Enterprise Holdings, Inc v Webmaster & Support, Forum Case No. 1562569.

The Respondent has not filed any administrative compliant response to the Amended Complaint. As such, the Panel accepts the Complainant's evidence as uncontradicted.

Accordingly, the Panel finds the Respondent has no right or legitimate interests in the disputed domain name.

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).

There are two elements that must be satisfied – registration and use in bad faith.

Registration in bad faith

The evidence also shows that the Complainant's trademark "MITTAL" is a well-known trademark.

Given the distinctiveness of the Complainant's trademark and reputation, and the Respondent's failure to respond to the proceedings, the Panel accepts the uncontradicted evidence of the Complainant's well-known trademark.

The Panel considers that it is reasonable to infer that the Respondent registered the disputed domain name with full knowledge of the Complainant's trademark.

Accordingly, it is inconceivable that the Respondent might have registered the disputed domain name identical to or incorporating the Complainant's trademark "MITTAL" into the disputed domain name without knowing of it.

Use in bad faith

The Panel has already referred to the uncontradicted facts set out in the Amended Complaint and accepts the evidence and contention that the disputed domain name is offered for sale.

The Panel observes that the Respondent has not demonstrated any activity in respect of the disputed domain name but rather it has offered the disputed domain name for sale.

Accordingly, it is not possible to conceive of any plausible actual or contemplated active use of the disputed domain name by the Respondent that would be lawful and legitimate.

The Panel accepts the uncontradicted evidence that the Respondent's incorporation of the Complainant's well-known trademark "MITTAL" into the disputed domain name coupled with its offer to sell the disputed domain name supports the Complainant's contention of registration and use in bad faith. See Citigroup, Inc v Kevin Goodman, Forum Case No 1623939.

The Panel, therefore, concludes that the Respondent's holding of the disputed domain name in this case satisfies the requirement that the disputed domain name is being used in bad faith by the Respondent.

Accordingly, the Panel finds that the registration of the disputed domain name and its use was in bad faith.

PROCEDURAL FACTORS

Notification of proceedings to the Respondent

When forwarding a Complaint, including any annexes, electronically to the Respondent, paragraph 2 of the Rules states that CAC shall employ reasonably available means calculated to achieve actual notice to the Respondent.

Paragraphs 2(a)(i) to (iii) set out the sort of measures to be employed to discharge CAC's responsibility to achieve actual notice to the Respondent.

On January 26, 2024 the CAC by its non-standard communication stated as follows (omitting irrelevant parts):

Written notice was not sent on the Respondent´s address of seat because the address was insufficient and non-existent. The notice

of the Commencement of the administrative proceeding was therefore only sent by email.

The e-mail notice was sent to <postmaster@mittal.shop> and also sent to <cnwangmei@gmail.com>, but the CAC never received any proof of delivery or notification of undelivery.

No further e-mail address could be found on the disputed site.

The Respondent never accessed the online platform.

Given the reasonable measures employed by CAC as set out in the above non-standard communication, 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 owns the registered trademark “MITTAL” and several domain names that includes its trademark which is used in connection with its goods or services for a considerable time. It is a well-known trademark.

The Respondent registered the disputed domain name on December 15, 2023. The disputed domain name incorporates the Complainant’s well-known trademark “MITTAL” in its entirety, without any addition or deletion, with the new gTLD “.shop” added to it.

The Complainant challenges the Respondent's registration of the disputed domain name under paragraph 4(a)(i) of the Policy and seeks relief that the disputed domain name be transferred to the Complainant.

The Respondent has failed to file any administratively compliant response.

For the reasons articulated in the Panel’s reasons above, the Complainant has satisfied the Panel of the following:

a. The disputed domain name is identical to the Complainant’s well-known trademark “MITTAL”.
b. The Respondent has no rights or legitimate interests in respect of the disputed domain name.
c. 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. **mittal.shop**: Transferred

PANELLISTS

Name	**William Lye OAM KC**

DATE OF PANEL DECISION 2024-01-29

Publish the Decision