Decision for dispute CAC-UDRP-106163

Case number	CAC-UDRP-106163
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Domain names	lojaarcemittal.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	ARCELORMITTAL

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Organization	IASMIN KELLY DA SILVA MACIEL TAVARES

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 various trademark registrations for ARCELORMITTAL worldwide, including international registration No. 947686, registered on 3 August 2007 for goods and services in classes 06, 07, 09, 12, 19, 21, 39, 40, 41 and 42 and designating various jurisdictions. Moreover, the Complainant owns a large portfolio of domain names consisting of the trademark ARCELORMITTAL, including <arcelormittal.com>, registered on 27 January 2006 and <arcelormittal.com.br>, registered on 26 June 2006.

FACTUAL BACKGROUND

The Complainant is a steel manufacturer operating worldwide and is the market leader in steel in the automotive, construction, household appliances and packaging fields, with a production of 59 million tons of crude steel in 2022.

The disputed domain name was registered on 12 January 2024 in the name of a Brasilian individual, and resolves to a website, which is a copy of the Complainant’s Brasilian website and displays the Complainant's trademark and logo.

PARTIES CONTENTIONS

1. The Complainant

The Complainant maintains that the disputed domain name is confusingly similar to the Complainant's trademark as the deletion of the sequence "lor" of the ARCELORMITTAL trademark, and the addition of term "loja", meaning "store" in Portuguese, are not sufficient to escape the finding that the disputed domain name is confusingly similar to the Complainant's mark. On the one side, the Complainant's trademark is still recognisable within the disputed domain name and, on the other side, the addition of the term "loja" directly refers to the Complainant's website at "www.loja.arcelormittal.com.br".

The Complainant further maintains that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent is not identified in the Whois database as the disputed domain name. The Respondent is in no way related to the Complainant, and the Respondent does not carry out any business for the Complainant. The Complainant has not authorised the Respondent to make use of its ACELORMITTAL trademark, or to apply for the registration of the disputed domain name. The disputed domain name points to a page identical to the Complainant's website at "www.loja.arcelormittal.com.br". This use cannot be considered a bona fide offer of goods or services or a legitimate use of the disputed domain name, since the website connected to the disputed domain name misleads consumers as to its origin.

Lastly, the Complainant contends that the disputed domain name was registered and is being used in bad faith. The Complainant's ARCELORMITTAL trademark is widely known and has a strong reputation. Given the distinctive character and reputation of the Complainant's trademark it is reasonable to infer that the Respondent registered the disputed domain name with full knowledge of the Complainant's mark. The disputed domain name resolves to a page, which is the copy of one of the Complainant's websites. Accordingly, the Respondent has intentionally attempted to attract, for commercial purposes, Internet users to its website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation or endorsement of its website.

2. The Respondent

The Respondent did not reply to the Complainant's contentions.

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

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

The Complainant has shown that it owns registered trademark rights over the trademark ARCELORMITTAL since many years before the registration of the disputed domain name. The disputed domain name consists of the word "loja", which means "shop" in Portuguese, and of the word "arcemittal", which is a misspelling of the Complainant's mark. According to the majority of the UDRP panels, a domain name, which consists of a common, obvious or intentional misspelling of a trademark is confusingly similar to the relevant mark for the purpose of the first element of the Policy. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Jurisprudential Overview 3.0"). The Panel finds that the same conclusion applies also in this case, considering

that the disputed domain name contains sufficiently recognisable aspects of the Complainant's mark. Moreover, in light of the recognisability of the Complainant's mark in the disputed domain name, the addition of the Portuguese word "loja" at the beginning of the disputed domain name cannot prevent a finding of confusing similarity with the Complainant's mark (see section 1.8 of the WIPO Jurisprudential Overview 3.0).

Accordingly, the Panel finds that the first condition under the Policy is met.

2. Lack of rights or legitimate interests

A complainant is required to make out a prima facie case that the respondent lacks rights or legitimate interests. Once such prima facie case is made, the burden of production shifts to the respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such appropriate allegations or evidence, a complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the UDRP.

Based on the available evidence, the Respondent does not appear to be known by the disputed domain name. The Respondent is not a licensee of, nor has any kind of relationship with, the Complainant. The Complainant never authorised the Respondent to make use of its trademark, nor of a confusingly similar trademark in the disputed domain name.

Finally, the disputed domain name is a typosquatted version of the Complainant's trademark and includes the Portuguese term "loja", equivalent to the English word "shop". The Complainant runs a Brazilian website at the url "https://loja.arcelormittal.com.br", which is closely similar to the disputed domain name and the website associated with the disputed domain name is identical to the Complainant's Brazilian website. Accordingly, the disputed domain name is highly misleading as to its origin as it creates an impermissible risk of user confusion through impersonation. Thus, the Respondent's use of the disputed domain name cannot amount to a bona fide use of goods or services, or to a legitimate or fair use of the disputed domain name, pursuant to paragraph 4(c)(iii) of the Policy.

In light of the foregoing, the Panel is satisfied that the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. It is therefore up to the Respondent to demonstrate its rights or legitimate interests in the disputed domain name. However, the Respondent has failed to file a Response, and therefore to provide any contrary argument and evidence in support of its position.

Accordingly, the Panel takes the view that also the second requirement under the Policy is met.

3. Bad faith registration and use

In light of the overall circumstances of this case, the Panel finds that the Respondent registered and used the disputed domain name in bad faith.

With respect to bad faith, the Panel notes that the Complainant's trademark is highly distinctive and that the disputed domain name includes a typosquatting of the Complainant's trademark. Moreover, the disputed domain name contains the term "loja", meaning "shop" in English. The disputed domain name has the same construction (loja + the Complainant's trademark) of the Complainant's URL for its website at https://loja.arcelormittal.com.br. In light of these circumstances and of the fact that the disputed domain name leads to a website that is a replica of the Complainant's website, it is not conceivable that the Respondent registered the disputed domain name without having in mind the Complainant's mark. Rather, it is clear that at the time of the registration of the disputed domain name, the Respondent was well aware of said mark and of the Complainant's business and decided to register the disputed domain name notwithstanding the Complainant's prior rights. Thus, the Panel concludes that the Respondent registered the disputed domain name in bad faith.

As far as use is concerned, the fact that the disputed domain name leads to a copy of the Complainant's website, where the Complainant's mark and logo appear prominently and where the Complainant's goods are offered for sale, is clear evidence of the Respondent's bad faith. Indeed, the Respondent has used the disputed domain name to intentionally attempt to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's mark. Moreover, through this use, the Respondent could also steel the visitors' sensitive information, such as their personal data, credit card information and the like, which is also evidence of bad faith.

Accordingly, the Panel takes the view that the third and last requirement under the Policy is also met.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **lojaarcemittal.com**: Transferred

PANELLISTS

Name	Angelica Lodigiani

DATE OF PANEL DECISION 2024-02-22

Publish the Decision