Decision for dispute CAC-UDRP-106238

Case number	CAC-UDRP-106238
Time of filing	2024-02-07 12:22:30
Domain names	distribution-arcelormittal.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	ARCELORMITTAL

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Organization	Agnieszka

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant has adduced evidence showing that it is the owner of the international trademark ARCELORMITTAL No. 947686, registered on 3 August 2007 in Nice Classification List classes 6, 7, 9, 12, 19, 21, 39, 40, 41 and 42 on the basis of an original registration with the Benelux Office for Intellectual Property.

The Complainant also adduced evidence to show that it is the registrant of the domain name <arcelormittal.com>, registered on 27 January 2006. The Complainant claims without submitting evidence to have a wider portfolio of domain name registrations.

The Respondent registered the disputed domain name <distribution-arcelormittal.com > on 5 February 2024 according to the Registrar Verification performed by the CAC Case Administrator.

FACTUAL BACKGROUND

The Complainant is the largest steel producing company in the world and is the market leader in steel for automotive, construction, household appliances and packaging use, with 59 million tonnes of crude steel made in 2022. It holds sizeable captive supplies of raw materials and operates extensive distribution networks.

Evidence adduced by the Complainant shows that the disputed domain name resolves to a registrar parking page, as demonstrated

by a screen shot provided by the Complainant, while another screenshot shows that the disputed domain name's DNS MX server addresses have been configured for redirection of e-mails.

The Panel's scrutiny of the Registration Verification disclosed significant irregularities in the contact details given for the Respondent at registration. While a real postal address and telephone number were provided, a routine check by the Panel under its general powers pursuant to the Rules shows that they correspond to a different entity entirely. In addition, while the Respondent's forename is credible, the surname "sales" (the first letter being in lower case in the registration itself, as recorded in the Registrar Verification details) is on its face suspect. The e-mail address given employs "purcha" as username to denote the Respondent, which is combined with a common e-mail hosting provider's domain name.

PARTIES CONTENTIONS

COMPLAINANT:

The disputed domain name is confusingly similar to the trademark ARCELORMITTAL. Indeed, the domain name includes the trademark in its entirety. Neither addition of the preceding generic term "distribution" with a hyphen in <distribution-arcelormittal.com> nor of the technical TLD suffix ".com" suffices to escape such confusingly similarity.

The Respondent is not known as the disputed domain name, as shown by the lack of similarity with it in the Respondent's name as held in the WHOIS database. Nor is the Respondent related in any way to the Complainant, while the Complainant carries out no activity for and has no business with the Respondent. Nor has the Complainant granted any license or authorization to the Respondent to make any use of the Complainant's trademark ARCELORMITTAL or to apply for registration of the disputed domain name. Furthermore, the disputed domain name is on parking page. In this respect, the Complainant contends that the Respondent did not make any use of the disputed domain name, and it alleges that the Respondent has no demonstrable plan to use the disputed domain name. All of these factors prove a lack of legitimate interest in the disputed domain name and show by contrast that it is conceived to create a likelihood of confusion with the Complainant and its trademark.

Given the distinctiveness of the Complainant's trademark and reputation, as well as the deliberate confusing similarity of the disputed domain name with the Complainant's trademark, it is reasonable to infer that the Respondent registered the disputed domain names with full knowledge of the Complainant's trademark and thus in bad faith. Furthermore, the disputed domain name redirects to a parking page. The Complainant contends here that the Respondent thereby demonstrates no activity in respect of the disputed domain name, whereas 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 passing off, an infringement of consumer protection legislation, or infringement of the Complainant's rights under trademark law. Finally, the disputed domain name has been set up with MX records which suggests that it may be actively used for email purposes. This is also indicative of bad faith registration and use because any email emanating from the disputed domain name could not be used for any good faith purpose.

RESPONDENT: NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown that the disputed domain name is identical or confusingly similar to trademarks 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 that 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 the UDRP were met and that there is no other reason why it would be inappropriate to provide a decision.

The Panel notes that its résumé of the Parties' contentions includes for the Complainant only its arguments pertinent to reaching a decision in this proceeding; it omits in particular references to past ADR Panels' Decisions. The Panel equally finds it unnecessary to consider a contention based on Decisions of some previous Panels regarding prima facie proof since this contention is redundant in this proceeding in light of the evidence that the Panel has before it to evaluate on the basis of the Case File.

PRINCIPAL REASONS FOR THE DECISION

This is a typical case of cybersquatting. It reposes on targeting of the Complainant's brand, in which the Complainant has adequately shown it has rights, through the Respondent's registration of a domain name that includes that brand as the dominant element, preceded by the generic term "distribution" with a hyphen and followed by the <.org> TLD technical suffix.

The disputed domain name is thereby likely to create the false impression in unsuspecting internet users' minds that the disputed domain name is an emanation of the Complainant which is related to the distribution function that is an indispensable part of its business organization as steel manufacturer.

Such creation of confusing similarity relative to the Complainant's trademark suffices for the Panel to find that the first part of the UDRP three-part cumulative test is satisfied.

As the Registrar Verification and Factual Background in this uncontested case indicate, the disputed domain name's registration was made under a transparently assumed identity, with a fanciful juxtaposition of the word "sales" in the surname given for the Respondent with the e-mail contact username "purcha" formed by an apparent truncation of the word "purchase". The Respondent then appears to have supplemented these implausible details with real postal details of another entity so as to achieve registration technically.

In combination with the misleading composition of the disputed domain name as outlined above and the absence of any relationship or authorization by the Complainant, as averred by the Complainant, the Panel considers that the subterfuge at registration just described dispels any question of whether the Respondent might enjoy rights or a legitimate interest in the disputed domain name.

Against this background, the Panel thus finds that the Respondent lacks any rights or legitimate interest in the disputed domain name under the second part of the UDRP test.

As to the UDRP test's third part, that of bad faith registration and use, the disputed domain name's composition itself suggests that the Respondent deliberately chose to register it as a stratagem to facilitate impersonation of the Complainant in a commercial context. This conclusion is reinforced by the Respondent employing a false identity at registration, presumably in order to evade responsibility for such conduct. A finding of bad faith registration is hence inescapable.

Such behaviour is also difficult to explain in any other way than as having the purpose of making actual illegitimate use of the right holder's reputation with respect to internet users, being here in all probability through communication aimed at businesses but possibly at private individuals as well. And some actual use, or preparation for it, can indeed – and notwithstanding, perhaps, the Complainant's own contention in this regard – be inferred from the Respondent's redirection of e-mails. What goes on with e-mail communication in that manner is not put on public display, as it is with communication by means of a generally accessible website. But, in the context of cybersquatting and subterfuge found above to exist here, it is hardly likely to be for purposes that would not tarnish the Complainant's reputation or be nefarious. The Panel hence finds the Respondent's use of the disputed domain name also to be in bad faith.

On the basis of the foregoing, the Panel therefore CONCLUDES that the UDRP's test has been met in all regards and ORDERS transfer of the disputed domain name to the Complainant.

The Panel finally records that it accords no particular importance in any respect to the presence of a parking page among the circumstances of this case.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **distribution-arcelormittal.com**: Transferred

PANELLISTS

Name	**Kevin Madders**

DATE OF PANEL DECISION 2024-03-18

Publish the Decision