Decision for dispute CAC-UDRP-106250

Case number	CAC-UDRP-106250
Time of filing	2024-02-13 10:52:46
Domain names	arcelomitta.online

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	ARCELORMITTAL

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	Hemilton Pereira dos Santos

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 states that it 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 Complainant is the owner of the international trademark n° 947686 ARCELORMITTAL registered on August 3, 2007. That International Registration designates a number of countries, not including Brazil where the Respondent appears to be located.

FACTUAL BACKGROUND

The disputed domain name <**arcelomitta.online**> was registered on February 9, 2024. The Complaintant provides evidence that the domain once resolved to a website copying a cooking recipes blog. As of the date of this decision, the Panel notes that the disputed domain name does not appear to resolve to any website.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED. The Complainant's contentions are addressed in context of

each element of the Policy.

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 states that the disputed domain name <**arcelomitta.online**> is confusingly similar to its trademark ARCELORMITTAL. Complainant states that the misspelling of the Complainant's trademark ARCELORMITTAL (i.e. the deletion of the letters "R" and "L") is characteristic of a typosquatting practice intended to create confusing similarity between the Complainant's trademark and the disputed domain name. The Panel agrees that the disputed domain name <arcelomitta.online> is confusingly similar to Complainant's trademark ARCELORMITTAL.

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). Complainant correctly asserts that it 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 Respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the Respondent fails to do so, then the Complainant is deemed to have satisfied paragraph 4(a) (ii) of the Policy.

The Complainant asserts that the Respondent is not identified in the Whois database as the disputed domain name, and thus the Respondent is not known as the disputed domain name. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the domain name <**arcelomitta.online**> and is not related in any way with the Complainant. The Complainant asserts that it does not carry out any activity for, nor has any business with the Respondent, as 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 by the Complainant. Moreover, the Complainant also claims that the disputed domain name is a typosquatted version of the trademark ARCELORMITTAL.

Finally, Complainant provides evidence that the disputed domain name once resolved to a website copying a cooking recipes blog. The Complainant contends that the Respondent used the dispute domain name in a way that fails to confer rights and legitimate interests, as it is used to promote unrelated services. Complainant cites one case in support: Forum Case No. FA1808541, Baylor University v. Pan Pan Chen / Chen Pan Pan ("Complainant argues that Respondent uses the disputed domain name to offer services completely unrelated to those offered by Complainant. Using a confusingly similar domain to promote unrelated services can evince a lack of a bona fide offering of goods or services or legitimate noncommercial or fair use."). On the other hand, the Panel notes that such evidence also could evince a legitimate use, as it has nothing to do with Complainant's business in the steel industry. However, Respondent has not appeared to contest any of Complainant's allegations on this point, and so the Panel agrees that Complainant has narrowly met its prima facie burden to prove this element of the Policy.

BAD FAITH

The Complainant has not, 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). Complainant filed this case just three days after the disputed domain name was registered. Complainant provides evidence that Respondent had only used the domain name for a purpose entirely unrelated to Complainant's business. The Panel accepts that Complainant has a distinctive mark which is well-known in certain industries, but Complainant provides no evidence that its mark has ever been used in association with a cooking blog or any related goods or services.

Complainant also provides no evidence to support the notion that Respondent, apparently in Brazil, was somehow aware of Complainant's trademark when he registered and used the disputed domain name for a purpose entirely unrelated to Complainant or its business. The International Registration provided to support Complainant's trademark rights does not designate Brazil, and Complainant provides no other evidence or any argument on this point.

Complainant argues only that the disputed domain name is a typosquatted version of Complainant's distinctive mark. But under the well-known Telstra line of UDRP cases, the Complainant must show something more than this in order prove bad faith registration or use of the disputed domain name. Here, the only evidence is that Respondent once used the disputed domain name to display a cooking blog, which has nothing to do with Complainant or its business. Complainant provides no evidence that the disputed domain name has been registered or used in bad faith. Therefore, the Panel finds that Complainant fails to meet its burden to prove this element of the Policy, and so the Complaint must be denied.

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

Complainant provides no evidence that the disputed domain name has been registered or used in bad faith. Therefore, the Panel finds that Complainant fails to meet its burden to prove this element of the Policy, and so the Complaint must be denied.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Rejected

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

1. **arcelomitta.online**: Remaining with the Respondent

PANELLISTS

Name	**Mike Rodenbaugh**

DATE OF PANEL DECISION 2024-03-23

Publish the Decision