Decision for dispute CAC-UDRP-106297

Case number	CAC-UDRP-106297
Time of filing	2024-02-29 10:05:50
Domain names	mittalarcelor.com

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	ARCELORMITTAL

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	Cast Allah

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 several trademarks. In particular, ARCELORMITTAL owns the International Registration No. 947686 ARCELORMITTAL registered on August 3, 2007 for classes 6, 7, 9, 12, 19, 21, 39, 40, 41 and 42 and duly renewed. The above trademark is protected in numerous countries.

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

The disputed domain name <mittalarcelor.com> was registered on February 21, 2024.

The Complainant states that the disputed domain name <mittalarcelor.com> is confusingly similar to its trademark ARCELORMITTAL. In particular, in the Complainant's view, the inversion of the sequences ARCELOR and MITTAL is not sufficient to escape the finding that the disputed domain name is confusingly similar to the trademark.

The Complainant states that the Respondent is not affiliated with him nor authorized by him in any way. The Complainant states that the Respondent has no rights nor legitimate interests in the disputed domain name and that it is not related in any way to its business. The Complainant does not carry out any activity for, nor has any business with the Respondent. The Respondent, according to the Whois database, is not commonly known by <mittalarcelor.com> or by other names similar to the disputed domain name.

The Complainant also notes that the domain name <mittalarcelor.com> resolves to a parking page with commercial links and that, given the distinctiveness of the Complainant's trademark and reputation, it is reasonable to infer that the Respondent has registered the domain name with the full knowledge of the Complainant's trademarks. It is the Complainant's view that the Respondent has allowed the disputed domain name to be used with the intent to attract Internet users for commercial gain, by creating a likelihood of confusion with the Complainant's trademark as to the source, affiliation or endorsement of the Respondent's website to which the domain name resolves. The Complainant has also demonstrated that the disputed domain name has been set up with MX records which suggests that it may be actively used for email purposes. This, according to the Complainant, is also indicative of bad faith registration and use.

PARTIES CONTENTIONS

The Complainant´s contentions are summarised above.

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

Paragraph 4(a) of the Policy provides that to obtain the transfer of the disputed domain name, the Complainant must prove that each of the following elements is present:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;

(ii) the Respondent has no rights or legitimate interests in respect of he disputed domain name; and

(iii) the disputed domain name has been registered and is being used in bad faith.

1) The Panel finds that Complainant has demonstrated to have well-established rights in its ARCELORMITTAL trademark, both through registration and use. The Panel further finds that the disputed domain name <mittalarcelor.com> incorporates the terms ARCELOR and MITTAL simply inverting the order of these words. This change does not prevent the Complainant's trademark from

being recognizable in the disputed domain name (see Giorgio Armani S.p.a. Milan Swiss Branch Mendrisio v. Lin jinqing, WIPO Case No. D2012-1412 - concerning the domain name <armani-emporio.com> and The Frankie Shop LLC v. Austin Hart, WIPO Case No. D2021-3553 - concerning the domain name <shop-frankie.com>). The Top-Level Domain ("gTLD") ".com" in the disputed domain name may be totally disregarded since the use of a gTLD is technically required to operate the disputed domain name and it does not serve to identify the source of the goods or services provided by the registrant of the disputed domain name (see for instance Statoil ASA v. Martins Ogemdi, WIPO Case No. D2015-0001). Accordingly, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights. The Complainant therefore succeeds on the first element of the Policy.

2) The Complainant provided prima facie evidence that the Respondent does not have rights or legitimate interests in respect of the disputed domain name as it is not commonly known under the disputed domain name and was never authorized to use the Complainant´s ARCELORMITTAL trademark . The Respondent, in the absence of any Response, has not shown any facts or element to justify prior rights or legitimate interests in the disputed domain name. The Complainant therefore succeeds on the second element of the Policy.

3) Paragraph 4(b) of the Policy sets out the following examples of circumstances that will be considered by an Administrative Panel to be evidence of the bad faith registration and use of a domain name:

(i) circumstances indicating that the domain name was registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the domain name registrant's out-of-pocket costs directly related to the domain name; or

(ii) the domain name was registered in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the domain name registrant has engaged in a pattern of such conduct; or
(iii) the domain name was registered primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, the domain name registrant intentionally attempted to attract for financial gain, Internet users to the registrant's website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the registrant's website or location or of a product or service on the registrant's website or location.
The above examples are not exclusive and other circumstances may exist that demonstrate the registration and use of a domain name in bad faith.

As to the registration of the disputed domain name in bad faith, the reputation of the Complainant's trademark is such that, in the Panel's view, the Respondent could not ignore the trademark ARCELORMITTAL at the time of the registration of <mittalarcelor.com>. It is therefore obvious that the Respondent selected the disputed domain name to create confusion with the Complainant´s affairs. It is the Panel's view that the Respondent was in bad faith when it decided to register the domain name in dispute since said registration was done having perfectly in mind the Complainant's trademark and the Complainant's business activity.

Furthermore, there is no evidence that the disputed domain name has been actively used by the Respondent for a website containing a concrete offer of goods and/or services. Instead, it only directs to a parking page containing various commercial links. This circumstance reveals the Respondent's primary motive in relation to the registration and use of the disputed domain name which is, in the Panel's view, to profit from the goodwill associated with the Complainant's ARCELORMITTAL. According to previous decisions, by diverting Internet users to the website associated with the disputed domain name, the Respondent is benefiting from pay-per-click revenue and profits, which is evidence of use of the disputed domain name in bad faith (see, Accor SA v. Domain Administrator, PrivacyGuardian.org / Zhichao Yang, WIPO Case No. D2017-1322 and Accor SA v. Jan Everno, The Management Group II, WIPO Case No. D2017-2212). Finally, the Panel has verified that the Respondent has set up "MX-records" for the disputed domain name. This entails that the Respondent can send e-mails through the e-mail address "@mittalarcelor.com". The Respondent can therefore use the disputed domain name to send fraudulent e-mails such as messages containing spam and/or phishing attempts that Internet users could well assume were sent by the Complainant. (See Conféderation Nationale du Crédit Mutuel, Crédit Industriel et Commercial v. Khodor Dimassi, WIPO Case No. D2016-1980 and Paris Saint-Germain Football v. MHP Private, WIPO Case No. D2019-0036). Albeit that there are no concrete examples of such use, it seems 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. The Panel finds that the mere conduct of making preparation for sending e-mails which are very likely to confuse the recipient of such e-mails as to their origin, is without justification and is inconsistent with the Complainant's exclusive rights in the ARCELORMITTAL trademark (see Accenture Global Services Limited v. Registration Private, Domains by Proxy, LLC / Richa Sharma, Name Redacted, WIPO Case No. D2019-2453). In consideration of the above, the Panel deems that the domain name in dispute was registered and used in bad faith and accordingly that the Complainant has satisfied also the third element of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **mittalarcelor.com**: Transferred

PANELLISTS

Name	**Guido Maffei**

DATE OF PANEL DECISION 2024-03-29

Publish the Decision