Decision for dispute CAC-UDRP-106362

Case number	CAC-UDRP-106362
Time of filing	2024-03-19 09:03:06
Domain names	arceleormittal.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	ARCELORMITTAL

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	Bal Ford

OTHER LEGAL PROCEEDINGS

The Panel is unaware of any other pending or decided legal proceedings in respect of the domain name <arceleormittal.com> ('the disputed domain name').

IDENTIFICATION OF RIGHTS

The Complainant relies upon the following registered trade mark:

- International trade mark registration no. 947686, registered on 3 August 2007, for the word mark ARCELORMITTAL, in classes 6, 7, 9, 12, 19, 21, 39, 40, 41 and 42 of the Nice Classification.

(Hereinafter referred to as 'the Complainant's trade mark', 'the Complainant's trade mark ARCELORMITTAL', or 'the trade mark ARCELORMITTAL').

The disputed domain name was registered on 13 March 2024. At the time of writing of this decision, it resolves to a parked page featuring pay-per-click (PPC) advertisement for goods and services related to the Complainant's business segment (for present purposes, 'the Respondent's website').

FACTUAL BACKGROUND

A. Complainant's Factual Allegations

The Complainant's statements of fact can be summarised as follows:

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.

In addition to the trade mark mentioned in the section 'Identification of Rights', the Complainant also owns numerous domain names, including <arcelormittal.com>, which was registered in 2006.

B. Respondent's Factual Allegations

The Respondent has failed to serve a Response in this UDRP administrative proceeding. Hence, the Complainant's factual allegations are uncontested.

PARTIES CONTENTIONS

A. Complainant's Submissions

The Complainant's contentions can be summarised as follows:

I. The disputed domain name is confusingly similar to a trade mark in which the Complainant has rights

The Complainant submits that the disputed domain name is confusingly similar to the Complainant's trade mark ARCELORMITTAL to the extent that the disputed domain name incorporates the Complainant's trade mark in its entirety. The addition of the letter 'o' in the disputed domain name string is characteristic of the typosquatting practice, which does not prevent a finding of confusing similarity with the ARCELORMITTAL trade mark. Furthermore, the generic Top-Level Domain (gTLD) suffix (<.com>) is typically disregarded in the assessment of identity or confusingly similar under paragraph 4(a) of the UDRP Policy.

II. The Respondent has no rights or legitimate interests in respect of the disputed domain name

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent does not carry out any activity for, or has any business with, the Complainant. Neither licence nor authorisation has been given to the Respondent to make any use of the Complainant's trade mark, or to apply for registration of the disputed domain name on the Complainant’s behalf.

The Complainant also submits that the Respondent is not known by the disputed domain name.

Lastly, the Complainant avers that the disputed domain name is a typosquatted version of the ARCELORMITTAL trade mark, and that such practice evidences the Respondent’s lack of rights of legitimate interest in the disputed domain name.

III. The Respondent registered and is using the disputed domain name in bad faith

Registration

The Complainant asserts that the trade mark ARCELORMITTAL is well-known and distinctive, and that its notoriety has been acknowledged in prior UDRP decisions, namely: CAC Case No. 101908, ARCELORMITTAL v China Capital; and CAC Case No. 101667, ARCELORMITTAL v Robert Rudd.

The Complainant further asserts that (i) the misspelling of the trade mark ARCELORMITTAL in the disputed domain name string was intentionally designed to be confusingly similar with the Complainant's trade mark; and (ii) given the distinctiveness and reputation of the trade mark ARCELORMITTAL, it is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trade mark ARCELORMITTAL.

Use

The Complainant submits that the Respondent's website contains PPC links related to the Complainant’s activities, such that the Respondent has attempted to attract Internet users seeking ARCELORMITTAL products to the third party websites, for financial gain (paragraph 4(b)(iv) of the UDRP Policy).

In addition, the Complainant submits that the Respondent has configured the disputed domain name with an MX (mail exchange) record which suggests that it may be actively used for email purposes.

The Complainant therefore concludes that the Respondent has registered and is using the disputed domain name in bad faith.

B. Respondent's Submissions

The Respondent has failed to serve a Response in this UDRP administrative proceeding. Hence, the Complainant's submissions are uncontested.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown that the disputed domain name is identical or confusingly similar to a trade mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the UDRP 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 UDRP 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 UDRP 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

A. General

Pursuant to Rule 15 of the UDRP Rules, the Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the UDRP Policy, the UDRP Rules, and any rules and principles of law that the Panel deems applicable.

Paragraph 4(a) of the UDRP Policy sets out the grounds which the Complainant must establish to succeed:

> i. The disputed domain name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights;
>
> ii. The Respondent has no rights or legitimate interests in respect of the disputed domain name; and
>
> iii. The disputed domain name has been registered and is being used in bad faith.

It is incumbent on the Complainant the onus of meeting the above threshold. The evidentiary standard under the UDRP proceedings is the balance of probabilities and, on that basis, the Panel will now proceed to determine each of the three UDRP Policy grounds in turn.

B. Identical or Confusingly Similar

The Panel is satisfied that the Complainant owns trade mark rights in 'ARCELORMITTAL' since 2007.

The disputed domain name is <arceleormittal.com> and it consists of the term 'arcelormittal' and the adjacent keyboard letter 'e'. The additional letter 'e' has no material impact on the recognisability of the Complainant's trade mark within the disputed domain name string. Moreover, gTLDs (in this case, <.com>) are typically disregarded by UDRP panels under this UDRP Policy ground given that the gTLD is part of the domain name's anatomy.

The Panel therefore finds that the Complainant has met the requirement under paragraph 4(a)(i) of the UDRP Policy.

C. Rights or Legitimate Interests

The Panel notes that the Respondent does not appear to carry out any activity for, or have any business or relationship of any nature with, the Complainant. There is no evidence of any contractual arrangement/endorsement/sponsorship between the parties to that effect, nor has the Complainant otherwise authorised the Respondent to make any use of the Complainant's trade mark or to register the disputed domain name on the Complainant's behalf. In addition, nothing on the record suggests that the Respondent (as an individual, business, or other organisation) has been commonly known by the disputed domain name.

The Panel is likewise unconvinced that, before any notice of the dispute, the Respondent used, or made demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a bona fide offering of goods or services.

The Respondent has failed to refute the Complainant's prima facie case that it has met its burden under the second UDRP Policy ground.

In view of the above, the Panel finds that the Complainant has succeeded under paragraph 4(a)(ii) of the UDRP Policy.

D. Registered and Used in Bad Faith

The Complainant raises a number of factors that may indicate registration and use in bad faith of the disputed domain name. Firstly, the Complainant's trade mark predates the registration of the disputed domain name by many years, in fact for over fifteen years. Secondly, the disputed domain name bears the trade mark ARCELORMITTAL in its string, coupled with the adjacent keyboard 'e', which is immaterial to affect the recognisability of the Complainant's trade mark. The Panel has therefore no hesitation in finding that the Respondent registered the disputed domain name with knowledge of, and intention to target, the Complainant.

With respect to the use in bad faith, the Complainant submits that the Respondent has engaged in the conduct described in paragraph 4(b)(iv) of the UDRP Policy, which provides as follows:

> '(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its 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 respondent's website or location or of a product or service on the respondent's website or location'.

As mentioned in the above section 'Identification of Rights', the disputed domain name resolves to a parked page featuring PPC advertisement for goods and services related to the Complainant's business segment.

The Panel has consulted paragraph 3.1.4 (circumstance (iv) above) of WIPO Panel Views on Selected UDRP Questions, Third Edition ('the WIPO Jurisprudential Overview 3.0') to form its view on the use of the disputed domain name under this UDRP Policy ground. In the Panel's assessment, the factors which attach weight to the Complainant's case are as follows: (i) the actual confusion between the Complainant's trade mark ARCELORMITTAL and the disputed domain name; (ii) the Respondent's attempt to cause such confusion; (iii) the lack of the Respondent's own rights to, or legitimate interests in, the disputed domain name; and (vi) the absence of any conceivable good faith use of the disputed domain name, particularly in view of the Respondent's website hosting PPC commercial links related to the Complainant's business area.

Accordingly, the Panel finds that the Complainant has succeeded under paragraph 4(a)(iii) of the UDRP Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **arceleormittal.com**: Transferred

PANELLISTS

Name	**Gustavo Moser**

DATE OF PANEL DECISION 2024-04-10

Publish the Decision