Decision for dispute CAC-UDRP-106408

Case number	CAC-UDRP-106408
Time of filing	2024-04-03 13:16:50
Domain names	arcelorrnnittal.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	ARCELORMITTAL

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	jones thomas

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 - ARCELOR MITTAL S.A. - relies on international verbal trademark no. 947686 <ArcelorMittal> registered on 3 August 2007 for goods/services in classes 6, 7, 9,12, 19, 21, 39, 40, 41, 42, designating amongst others the United States of America, where the Respondent is indicated to be located.

FACTUAL BACKGROUND

The disputed domain name has been registered on 28 March 2024.

It results from the Complainant's documented allegations that the disputed domain name resolves to a parking page with commercial pay-per-click-links related amongst others to the Complainant's core business, metal.

In addition, it results from the Complainant's undisputed allegations that MX servers are configured to the disputed domain name.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.

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

1.

The Panel finds that the disputed domain name is confusingly similar to the Complainant’s trademark. Many panels have found that a domain name is confusingly similar to a complainant’s trademark where it incorporates the complainant’s trademark in its entirety. It is true that in the case at hand, the Complainant’s registered trademark <ArcelorMittal> is not fully included in the disputed domain name. However, merely doubling one "r" and replacing the “M” with two "nn" result to be irrelevant minor variations and obvious misspellings of the Complainant's mark <ArcelorMittal> and is at least phonetically not enough to exclude confusing similarity. In fact, a domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element (see point 1.9 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition - “WIPO Jurisprudential Overview 3.0”).

2.

In the absence of any response, or any other information from the Respondent indicating the contrary, the Panel further holds that the Complainant successfully presented its prima facie case and that the Respondent has no rights or legitimate interests in respect of the disputed domain name, paragraph 4(a)(ii) of the Policy.

In particular, the Respondent is neither affiliated with nor authorized by the Complainant, and it is not related in any way to the Complainant’s business. In addition, the Respondent is not commonly known by the disputed domain name. Finally, the website to which the disputed domain name resolves is parked and shows commercial pay-per-click-links including links related to the Complainant's business. This can neither be considered as bona fide offering of goods or services nor a legitimate non-commercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

3.

Finally, the Panel finds that the disputed domain name has been registered and is being used in bad faith.

It is the view of this Panel that the Respondent has intentionally registered the disputed domain name, which almost identically reproduces the Complainant’s trademark. By the time the disputed domain name was registered, it is unlikely that the Respondent

did not have knowledge of the Complainant’s rights on its trademark.

It is the view of this Panel that the Respondent has intentionally registered the disputed domain name, which almost identically reproduces the Complainant's trademark. The Panel is convinced that by the time the disputed domain name was registered, the Respondent had positive knowledge of the Complainant’s rights on its trademark. In doing so, the Respondent attempts to pass itself off as the Complainant.

In the Panel’s view, the Respondent has intentionally registered the disputed domain name which almost identically reproduces the Complainant's trademark. By the time the disputed domain name was registered, it is unlikely that the Respondent did not have knowledge of the Complainant and its mark <ArcelorMittal>, which is almost identically included in the disputed domain name. The Complainant also provided evidence that the Respondent is using the disputed domain name to lead to a parking page with commercial pay-per-click-links related amongst others to the Complainant's core business, metal. These facts confirm that the disputed domain name is used to intentionally attempt to attract, for commercial gain, Internet users to the Respondent’s website, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the Respondent’s website.

Finally, the Respondent had configured the disputed domain name with an MX (mail exchange) record. In the Panel´s view, this supports a finding that the Respondent has registered the disputed domain name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant’s mark.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **arcelorrnnittal.com**: Transferred

PANELLISTS

Name	**Tobias Malte Müller**

DATE OF PANEL DECISION 2024-05-09

Publish the Decision