# Decision for dispute CAC-UDRP-106493

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| Case number | CAC-UDRP-106493 |
| Time of filing | 2024-04-29 09:50:41 |
| Domain names | axcelormittal.com |

## Case administrator

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| Name | Olga Slanařová (Case admin) |

## Complainant

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| Organization | ARCELORMITTAL |

## Complainant representative

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| Organization | NAMESHIELD S.A.S. |

## Respondent

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| Name | Gray Falkon |

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 ARCELORMITTAL S.A. formed in 2006, is a multinational corporation, specialized in steel manufacturing and mining, headquartered in Luxembourg City.

The Complainant is the owner of the international trademark, Reg. No. 947686 ARCELORMITTAL (word mark), registered on August 3, 2007, and in force until August 3, 2027, in International Classes 6, 7, 9, 12, 19, 21, 39, 40, 41 and 42.

FACTUAL BACKGROUND

The Complainant is a recognized steel producing company for use in automotive, construction, household appliances and packaging with 58.1 million tons crude steel made in 2023. It holds sizeable captive supplies of raw materials and operates extensive distribution networks.

The Complainant has steel manufacturing in 15 countries, customers in 140 countries, it has 126,756 employees (as of December 31, 2023) at a worldwide scale, it holds more than 200 trademarked products, counts with 831 patent families and has more than 100 R&D Programs in progress.

The Complainant also owns the domain name <arcelormittal.com> registered since January 27, 2006.

The disputed domain name <**axcelormittal.com**> was registered on **April 23, 2024,** and resolves to a parking page with sponsored pay-per-click ("PPC") links website, with active MX records.

PARTIES CONTENTIONS

**Complainant Contentions**:

In relation to the first element of the Policy, in summary, the Complainant contends that the disputed domain name <**axcelormittal.com**> is confusingly similar to its trademark ARCELORMITTAL; that he obvious misspelling of the Complainant's trademark ARCELORMITTAL (i.e. substitution of the letter "R" by the letter "X") is characteristic of a typosquatting practice intended to create confusing similarity between the Complainant's trademark and the disputed domain name.

In relation to the second element of the Policy, in summary, the Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, given that the Respondent is not commonly known by the disputed domain name; that there is no commercial link and/or any kind of relationship or business relationship between the Parties; 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; that a website with PPC links related to the Complainant, doesn't constitute a bona fine offering of goods and services or legitimate non-commercial or fair use as set out in paragraph 4.(c)(i) and (iii) of the Policy.

In relation to the third element of the Policy, in summary, the Complainant contends regarding bad faith registration, that given the notoriety of the Complainant's trademark ARCELORMITTAL, confirmed by previous panelists, i.e.: ARCELORMITTAL v. China Capital, CAC-UDRP Case No. 101908; ARCELORMITTAL v. Robert Rudd, CAC-UDRP Case No. 101667; ArcelorMittal SA v. Tina Campbell, WIPO Case No. DCO2018-0005, it was reasonable to infer that the Respondent registered the disputed domain name with full knowledge of the Complainant's trademark; that the intentional misspelling of the trademark in the disputed domain name, was designed to be confusingly similar with the Complainant's trademark, which reinforces Respondent's bad faith; regarding bad faith use, the Complainant contends that as previous panelists have found, where a PPC website with commercial links related to the Complainant, constitute an evidence of bad faith use as set out in paragraph 4.b.(iv) of the Policy. Finally, the Complainant contends that since MX servers are configured, suggests that the disputed domain name may be actively used for email purposes, citing JCDECAUX SA v. Handi Hariyono, CAC-UDRP Case No. 102827.

**Response**

No administratively compliant Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is 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

As set out in paragraph 4(a) of the Policy, to succeed the complainant must meet each of the following elements:

(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 the disputed domain name; and

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

In this dispute, no Response or any communication has been submitted by the Respondent, which according with the panelists' consensus view, would not by itself mean that the complainant is deemed to have prevailed, see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("WIPO Overview 3.0"), section 4.3. Therefore, this Panel shall analyze the evidence submitted by the Complainant and decide this dispute under the "balance of probabilities" or "preponderance of the evidence" standard, as set out in paragraph 14 and 15(a) of the Rules, and WIPO Overview 3.0, section 4.2.

**Identical or Confusingly Similar**

The Complainant has provided sufficient evidence of having trademark rights over the term ARCELORMITTAL as set out in paragraph 4.a.(i) of the Policy.

The disputed domain name <axcelormittal.com> is confusingly similar to Complainant's ARCELORMITTAL trademark. Despite the intentional misspelling (i.e. substitution of the letter "R" by the letter "X") the Complainant's trademark is recognizable in the disputed domain name. Such alteration constitutes an act of typosquatting, that generates a false impression to the Internet user. See WIPO Overview 3.0, section 1.9.

In relation to the ccTLD ".co", it is well established that such element may typically be disregarded when assessing whether a domain name is identical or confusingly similar to a trademark, as it is a technical requirement of registration. See WIPO Overview 3.0, section 1.11.1.

Therefore, the disputed domain name <**axcelormittal.com**> is confusingly similar to Complainant's ARCELORMITTAL trademark.

**Rights or Legitimate Interests**

Having reviewed the available record, and considering the lack of Response, this Panel finds that the Complainant has established its prima facie case in relation to the Second Element of the Policy, due to:

- the Respondent chose a worldwide well-known trademark as ARCELORMITTAL, intentionally misspelling it, generating confusion among the Internet users, who expects to find the Complainant on the Internet;
- the Respondent registered the disputed domain name on **April 23, 2024**, very well after the Complainant's acquired its trademark rights over ARCELORMITTAL on **August 3, 2007**;
- the Respondent is not associated or affiliated with the Complainant;
- the Complainant has not granted any rights to the Respondent to use the ARCELORMITTAL trademark, whether a license to offer any product or service, or any rights to apply for registration of the disputed domain name by the Complainant;
- there is no evidence that the Respondent has become commonly known by the term "axcelormittal.com";
- the Respondent is not making a bona fide offering of goods or services by means of the disputed domain name, or a legitimate non-commercial or fair use of it, as set out in paragraph 4.c.(i) and (iii) of the Policy and WIPO Overview 3.0, section 2.9.

Therefore, this Panel concludes, that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

**Registered and Used in Bad Faith**

Bad Faith Registration:

Section 3.2.1 of the WIPO Overview 3.0, estates that:

> "Particular circumstances panels may take into account in assessing whether the respondent's registration of a domain name is in bad faith include: (i) **the nature of the domain name** (e.g., **a typo of a widely-known mark**, or a domain name incorporating the complainant's mark plus an additional term such as a descriptive or geographic term, or one that corresponds to the complainant's area of activity or natural zone of expansion), (…) (iii) **the content of any website to which the domain name directs**, including any changes in such content and the timing thereof, (iv) **the timing and circumstances of the registration** (particularly following a product launch, or the complainant's failure to renew its domain name registration), (…) (vi) **a clear absence of rights or legitimate interests coupled with no credible explanation for the respondent's choice of the domain name**, or (viii) other indicia generally suggesting that the respondent had somehow targeted the complainant." (Emphasis added).

According with the evidence submitted, the Complainant's trademark rights has been established very well before the disputed domain name registration's date; ARCELORMITTAL is a worldwide well-known trademark; the nature of the disputed domain name (typosquatting) and the website content with PPC commercial links related to the Complainant, facts that to this Panel are sufficient to conclude that at the time of the registration of the disputed domain name the Respondent knew about the Complainant's business and ARCELORMITTAL trademark, therefore doing it with the Complainant's in mind. See WIPO Overview 3.0, section 3.1.3 and 3.2.2.

Therefore, this Panel concludes that the disputed domain name was registered in bad faith.

Bad Faith Use:

Given the use of the disputed domain name, i.e.: for a PPC website with commercial links related to the Complainant, the lack of Respondent's response, the presence of active MX records, to this Panel, it is very clear, that the Respondent has failed into paragraph 4 (b)(iv) of the Policy (In addition, see WIPO Overview 3.0, section 3.5 and 3.4).

Therefore, this Panel concludes that, the disputed domain name is being used in faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **axcelormittal.com**: Transferred

## PANELLISTS

| Name | **María Alejandra López García** |
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DATE OF PANEL DECISION 2024-05-26

Publish the Decision