Decision for dispute CAC-UDRP-106509

Case number	CAC-UDRP-106509
Time of filing	2024-05-06 09:21:21
Domain names	arceelorrmittal.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	ARCELORMITTAL

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	Kent Silvers

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

Complainant is the owner of the international trademark nr. 947686 ARCELORMITTAL registered on 3 August 2007.

FACTUAL BACKGROUND

According to the information provided by the registrar the disputed domain name <arceelorrmittal.com> was registered on 15 March 2024.

The disputed domain name resolves to a parking page, in addition MX records have been set up.

PARTIES CONTENTIONS

Complainant:

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

According to the evidence submitted by Complainant, Complainant is the largest steel producing company in the world. Complainant also owns a number of domain names, including the same distinctive words ARCELORMITTAL, of which the domain name <arcelormittal.com> registered on 27 January 2006.

According to Complainant the disputed domain name is confusingly similar to Complainant's trademark. Complainant asserts that the obvious misspelling of Complainant's trademark ARCELORMITTAL (i.e. the addition of the letters "e" and "r" in the disputed domain name) is characteristic of a typosquatting practice intended to create confusing similarity between Complainant's trademark and the disputed domain name.

According to Complainant, Respondent has no rights or legitimate interest in the disputed domain name. Respondent is not commonly known by the disputed domain name. Respondent is not related in any way with Complainant. Complainant does not carry out any activity for, nor has any business with Respondent. Neither license nor authorization has been granted to Respondent to make any use of Complainant's trademark ARCELORMITTAL, or apply for registration of the disputed domain name. Complainant also claims that the disputed domain name is a typosquatted version of the trademark ARCELORMITTAL. Typosquatting is the practice of registering a domain name in an attempt to take advantage of Internet users' typographical errors and can evidence that a respondent lacks rights and legitimate interests in the domain name. Furthermore, the disputed domain name resolves to a parking page. Complainant contends that Respondent did not make any use of disputed domain name, and it confirms that Respondent has no demonstrable plan to use the disputed domain name. It proves a lack of legitimate interests in respect of the disputed domain name except in order to create a likelihood of confusion with Complainant and its trademark.

According to Complainant the disputed domain name is registered and is being used in bad faith. Given the distinctiveness of Complainant's trademark and reputation, it is reasonable to infer that Respondent has registered the disputed domain name with full knowledge of Complainant's trademark. Complainant also states that the misspelling of the trademark ARCELORMITTAL was intentionally designed to be confusingly similar with Complainant's trademark.
Furthermore, the disputed domain name redirects to a parking page. Complainant argues that Respondent has not demonstrated any activity in respect of the disputed domain name, and it is not possible to conceive of any plausible actual or contemplated active use of the disputed domain name by Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of Complainant's rights under trademark law. As prior panels have held, the incorporation of a famous mark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use. Finally, the disputed domain name has been set up with MX records which suggests that it may be actively used for email purposes. This is also indicative of bad faith registration and use because any email emanating from the disputed domain name could not be used for any good faith purpose.

Respondent:

No administratively compliant Response has been filed.

RIGHTS

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 Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

Complainant has, to the satisfaction of the Panel, shown 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

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

In the opinion of the Panel the disputed domain name is confusingly similar to Complainant's trademark (Policy, Par. 4 (a)(i)). Many UDRP decisions have found that a disputed domain name is identical or confusingly similar to a complainant's trademark where the disputed domain name incorporates the complainant's trademark or the principal part thereof in its entirety or where a disputed domain name consists of a common, obvious or intentional misspelling of a trademark. Complainant has established that it is the owner of trademark registrations for ARCELORMITTAL. The disputed domain name incorporates the entirety of the well-known ARCELORMITTAL trademark as its distinctive element. The addition of the letters "e" and "r" in the disputed domain name as a typical case of typosquatting, is insufficient to avoid a finding of confusing similarity as the ARCELORMITTAL trademark remains the dominant component of the disputed domain name. The top-level domain "com" in the disputed domain name may be disregarded.
The Panel notes that Complainant's registration of its trademark predates the creation date of the disputed domain name.

In the opinion of the Panel Complainant has made a prima facie case that Respondent lacks rights or legitimate interest in the disputed domain name. Complainant has not licensed or otherwise permitted Respondent to use its trademark or to register the disputed domain name incorporating its mark. Respondent is not making a legitimate noncommercial or fair use of the disputed domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark of Complainant. Respondent is not commonly known by the disputed domain name nor has it acquired trademark rights. Complainant has no relationship with Respondent. Respondent did not submit any response.
Under these circumstances, the Panel finds that Respondent has no rights or legitimate interests in the disputed domain name.

The Panel finds that the disputed domain name has been registered and is being used in bad faith. Complainant has rights in the ARCELORMITTAL trademark. Respondent knew or should have known that the disputed domain name included Complainant's well-known mark. The Panel notes the undisputed submission of Complainant that the disputed domain name does not resolve to an active website. It is well established that non-use of a domain name does not prevent a finding of bad faith use under the doctrine of passive holding (see section 3.3. of the WIPO Overview 3.0).
The undisputed submission that there are active MX records connected to the disputed domain name, suggests that it is unlikely that Respondent will be able to make any good faith use of the disputed domain name as part of an e-mail address. The record in this case contains no evidence of illegal behavior, but the configuration of MX records presents the potential for an email phishing scheme impersonating Complainant.
The Panel further notes the obvious typosquatting consisting of the insertion of the letters "e" and "r" in the disputed domain name which indicates, in the circumstances of this case, that Respondent registered and used the disputed domain name with the intention to attract, for commercial gain, Internet users to the website by creating a likelihood of confusion with the trademarks of Complainant as to the source, sponsorship, affiliation, or endorsement of its website or location or of a service on its website or location, which constitutes registration and use in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **arceelorrmittal.com**: Transferred

PANELLISTS

Name	**Dinant T.L. Oosterbaan**

DATE OF PANEL DECISION 2024-05-31

Publish the Decision