Decision for dispute CAC-UDRP-106604

Case number	CAC-UDRP-106604
Time of filing	2024-06-13 09:16:43
Domain names	mittalaceros.com

Case administrator

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

Complainant

Organization	ARCELORMITTAL

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Organization	Njalla Okta LLC

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 owns several trademarks including the wording “MITTAL” in several countries, such as the International trademark MITTAL n° 1198046 registered on December 5, 2013.

The Complainant also owns an important domain names portfolio containing the same wording MITTAL, such as the domain name <mittalsteel.com> registered since January 3, 2003.

The disputed domain name <mittalaceros.com> was registered on June 11, 2024, and resolves to an index page. Besides, MX servers are configured.

FACTUAL BACKGROUND

ARCELORMITTAL (the Complainant) is a company specialized in steel producing in the world. 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 58.1 million tons crude steel made in 2023. It holds sizeable captive supplies of raw materials and operates extensive distribution networks.

The Complainant owns several trademarks including the wording “MITTAL” in several countries, such as the International trademark

MITTAL n° 1198046 registered on December 5, 2013.

The Complainant also owns an important domain names portfolio containing the same wording MITTAL, such as the domain name <mittalsteel.com> registered since January 3, 2003.

The disputed domain name <mittalaceros.com> was registered on June 11, 2024, and resolves to an index page. MX servers for the disputed domain name are configured.

The Complainant states that the disputed domain name <mittalaceros.com> is confusingly similar to its trademark MITTAL as it is identically contained.

The Complainant asserts that the addition of the term “ACEROS” (Spanish for “STEELS”) is not sufficient to escape the finding that the disputed domain name is confusingly similar to the trademarks. It does not change the overall impression of the designation as being connected to the Complainant’s trademarks. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant and its trademarks.

On the contrary, the addition of the term “ACEROS” reinforces the risk of confusion as it refers to the Complainant’s activities.

Furthermore, the Complainant contends that the addition of the gTLD “.COM” does not change the overall impression of the designation as being connected to the Complainant’s trademarks. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademarks and its domain names associated.

Consequently, the disputed domain name <mittalaceros.com> is in the view of Complainant confusingly similar to Complainant’s trademark MITTAL.

The Complainant asserts that the Respondent is not identified in the Whois database as the disputed domain name. Past panels have held that a Respondent was not commonly known by a disputed domain name if the Whois information was not similar to the disputed domain name. Thus, the Respondent is in the view of Complainant not known as the disputed domain name.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the domain name <mittalaceros.com> and he is not related in any way with the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent.

Neither license nor authorization has been granted to the Respondent to make any use of the Complainant’s trademark MITTAL, or apply for registration of the disputed domain name by the Complainant.

Besides, the disputed domain name resolves to an index page. The Complainant contends that Respondent did not make any use of the disputed domain name since its registration, and it confirms that Respondent has no demonstrable plan to use it. It demonstrates a lack of legitimate interests in respect of the disputed domain name.

Thus, in accordance with the foregoing, the Complainant contends that the Respondent has no right or legitimate interest in respect of the disputed domain name.

The Complainant contends that the disputed domain name is confusingly similar to its distinctive trademark MITTAL.

The Complainant argues that the Complainant’s trademark MITTAL is widely known. Past panels have confirmed the notoriety of the trademark MITTAL.

Besides, the addition of the term “ACEROS” (Spanish for “STEEL”) cannot be coincidental as it refers to the Complainant’s activities.

Given the distinctiveness of the Complainant's trademarks and reputation, it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's trademark.

Moreover, the disputed domain name resolves to an index page. The Complainant contends that the 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 domain name by the Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant’s rights under trademark law. As prior WIPO UDRP 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 e-mail 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.

Thus, Complainant contends that Respondent has registered the disputed domain name and is using it in bad faith.

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. Confusingly Similar

The Complainant has rights in the mark by virtue of its registered trademark Mittal.

The disputed domain name incorporates the whole of the Complainant’s Mittal trademark, and adds the word "aceros" at the end of the disputed domain name and the TLD suffix ".com".

The Panel agrees with Complainant that the addition of the term “ACEROS” (Spanish for “STEELS”) is not sufficient to escape the finding that the disputed domain name is confusingly similar to the trademarks. It does not change the overall impression of the designation as being connected to the Complainant’s trademarks. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant and its trademarks.

On the contrary, the addition of the term “ACEROS” reinforces the risk of confusion as it refers to the Complainant’s activities. Therefore, as prior Panels have held, the addition of this word worsen the confusing similarity between a trademark and a disputed domain name, because it is connected and associated with the products of Complainant.

The addition of the term "ACEROS" therefore is not sufficient to avoid the likelihood of confusion with the Complainant’s trademark.

The Panel agrees with the Complainant that the addition of the gTLD ".COM" does not change the overall impression of the designation as being connected to the trademark MITTAL of the Complainant. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant´s trademark. It is the consensus practice of past UDRP panels that TLDs, in this case ".COM", should be disregarded when comparing domain names with trademarks.

Therefore, the Panel finds, that the disputed domain name is confusingly similar to the Complainant’s trademark Mittal.

2. Rights or Legitimate Interests

When a respondent remains completely silent in the face of a prima facie case that it lacks any rights or legitimate interests in respect of a domain name, a complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the Policy. Here the Complainant has presented an abundance of evidence to show that the Respondent has no plausible right or legitimate interest in respect of the disputed domain name and the Panel so finds.

3. Bad Faith

The Panel agrees with Complainant that the Respondent registered the disputed domain name with knowledge of the Complainant's rights. The disputed domain name was registered more than a decade after the registration of the trademarks and two decades after the domain names of the Complainant, and the Complainant used it widely since then.

Moreover, the Complainant also claims that the Respondent knew of the Complainant's rights in the MITTAL trademark prior to registration of the disputed domain name since he chose to register a domain name that contains the term "ACEROS" a to Complainant business product-related term.

The Panel agrees. Given the distinctiveness of the Complainant's trademarks and reputation, it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's trademark.

Moreover, the disputed domain name resolves to an index page. The Respondent has not demonstrated any activity in respect of the disputed domain name, and it is almost not possible to conceive of any plausible actual or contemplated active use of the domain name by the Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant’s rights under trademark law. As prior WIPO UDRP panels have held, the incorporation of a famous mark into a domain name, coupled with an inactive website, can be evidence of bad faith registration and use. Furthermore, the disputed domain name has been set up with MX records, which suggests that it may be actively used for e-mail purposes.

On these grounds, the Panel concludes that the Respondent has registered and is using the disputed domain name in bad faith.

For the reasons stated above, it is the decision of this Panel that the Complainant has satisfied all three elements of paragraph 4(a) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **mittalaceros.com**: Transferred

PANELLISTS

Name	**Jan Schnedler**

DATE OF PANEL DECISION 2024-07-08

Publish the Decision