Decision for dispute CAC-UDRP-106740

Case number	CAC-UDRP-106740
Time of filing	2024-07-24 13:28:59
Domain names	arcelomrttal.com

Case administrator

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

Complainant

Organization	ARCELORMITTAL

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	office work

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 is the owner of the international trademark n° 947686 ARCELORMITTAL registered on August 3, 2007 and duly renewed as per the copy of the WIPO database abstract provided.

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

The disputed domain name <arcelomrttal.com> was registered on July 18, 2024 for which It is specified that the MX servers are configured.

FACTUAL BACKGROUND

The Complainant is a world’s leading steel company with over 58 million of tons of crude steel made in 2023.

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

The disputed domain name was registered by the Respondent on July 18, 2024, and resolved to a registrar parking page. Furthermore, it has been checked and proved by the Complainant that MX servers are configured.

Furthermore, and according to the Registrar, waiving the Whois privacy, the Respondent is a (supposed) company named "Office Work" based in Malta.

PARTIES CONTENTIONS

1. **Complainant**

The Complainant claims that the disputed domain name is confusingly similar to its trademark ArcelorMittal. The Complainant alleges that the apparent misspelling of the Complainant's trademark ArcelorMittal, namely the inversion of the letters “l” and “M” and the deletion of the letter “l” is characteristic of a typosquatting practice intended to create confusing similarity between the Complainant’s trademark and the disputed domain name.

The Complainant further alleges that the Respondent has no rights or legitimate interests in the disputed domain name.

Specifically, Complainant alleges that (i) Respondent is not identified in the Whois database by the disputed domain name but as "Office Work" (after waiving of the Whois data) and is in no way related to Complainant, (ii) Complainant does not perform any activity for, nor has any business with, Respondent, (iii) that the disputed domain name is a typo-squatted version of the ArcelorMittal trademark, and (iv) that the disputed domain name resolves to a registrar parking page and MX servers are configured and that the Respondent has not made any use of the disputed domain name.

The Complainant alleges that the Respondent has registered and is using the disputed domain name in bad faith. The Complainant asserts that the ArcelorMittal trademark is widely known. The Complainant also notes that the reputation of the ArcelorMittal trademark has been confirmed, inter alia, in previous CAC cases No. 101908 and No. 101667.

The Complainant alleges that, given the distinctiveness of the Complainant's mark and its reputation, it is reasonable to infer that the Respondent registered the domain name with full knowledge of the Complainant's mark.

Furthermore, the Complainant alleges that (i) the misspelling of the mark ArcelorMittal is intentionally designed to be confusingly similar to the Complainant's mark, (ii) the Respondent has not demonstrated any activity with respect to 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 the Respondent that would not be unlawful. The inclusion of a famous mark in a domain name, coupled with registrar parking page, may be evidence of bad faith registration and use.

Finally, the Complainant alleges that the disputed domain name has been set up with MX records indicating that it may be actively used for e-mail purposes. These actions are evidence of bad faith.

2. **Respondent**

No administratively compliant response has been submitted by the Respondent.

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.

Notification of the Respondent

No administratively compliant Response has been filed. It ought to be indicated that the written notice of the Complaint was returned to the Czech Arbitration Court.

The e-mail notice sent to <postmaster@bforbk.com> was returned back undelivered as the e-mail address had permanent fatal errors. The e-mail notice was also sent to <clonebox10@gmail.com> (registrant´s contact email), but the CAC never received any proof of delivery or notification of undelivery.

No further e-mail address could be found on the disputed domain name´s site. The Respondent never accessed the online platform.

The respondent never contacted the CAC nor provided any contentions.

PRINCIPAL REASONS FOR THE DECISION

In accordance with paragraph 4(a) of the Policy, in order to obtain the transfer of the disputed domain name, the Complainant has to demonstrate that:

(i) The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

(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.

Identical or Confusingly Similar

The first requirement that the Complainant must establish is that the disputed domain name is identical with, or confusingly similar to, the Complainant's trademark or service mark rights.

There are two elements of this test: the Complainant must demonstrate that it has rights in a trademark or service mark and, if so, the disputed domain name must be shown to be identical or confusingly similar to the trademark or service mark.

The Complainant has proven ownership of the registered trademark "ARCELORMITTAL", identified in section "Identification of rights" above.

On the question of identity or confusing similarity, what is required is simply a comparison and assessment of the disputed domain name itself to the Complainant's trademark.

The inversion of the letters "l" and "M" and the deletion of the letter "l" replaced by the letter "t" visually almost identical to the "i" does not distinguish the disputed domain name from the Complainant's trademark and more likely demonstrates the typosquatting practice intended to create confusing similarity between the Complainant's trademark and the disputed domain name.

The addition of the generic top level domain ".COM" does not change the overall impression of the designation as being connected to Complainant's trademark.

The Panel therefore considers the disputed domain name to be confusingly similar to the Complainant's trademark ARCELORMITTAL which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

Rights or Legitimate Interests

The Complainant has established a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name.

The disputed domain name resolves to a registrar parking page and such use does not constitute a bona fide offering of goods and services or a legitimate noncommercial fair use. It has not been proved by the Respondent that he has rights or legitimate interests in the disputed domain name, or the Respondent is related with the Complainant. Neither license nor authorization has been proven to be granted to the Respondent to make any use of the Complainant's trademark or apply for registration of the disputed domain name.

The Panel therefore considers that the Respondent has no rights or legitimate interests in respect of the disputed domain name within the meaning of paragraph 4(a)(ii) of the Policy.

Registered and Used in Bad Faith

Under the third requirement of the Policy, the Complainant must establish that the disputed domain name has been both registered and used in bad faith by the Respondent.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, including:

(i) circumstances indicating that [the Respondent] [has] registered or [has] acquired the [disputed] domain name primarily for the purpose of selling, renting, or otherwise transferring the [disputed] domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of [the Respondent's] documented out-of-pocket costs directly related to the [disputed] domain name; or

(ii) [the Respondent] [has] registered the [disputed] domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that [the Respondent] [has] engaged in a pattern of such conduct; or

(iii) [the Respondent] [has] registered the [disputed] domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the [disputed] domain name, [the Respondent] [has] intentionally attempted to attract, for commercial gain, Internet users to [the Respondent's] web site 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] web site or location or of a product or service on [the Respondent's] web site or location.

Given the distinctiveness of the Complainant's trademark and reputation (as mentioned in several UDRP proceedings in the past - CAC Case No. 101908, ARCELORMITTAL v. China Capital; CAC Case No. 101667, ARCELORMITTAL v. Robert Rudd) it is clear that the Respondent had the Complainant and its trademark in mind when registering the disputed domain name containing the entire Complainant’s trademark. The Panel considers such use of the Complainant’s trademark as the evidence of bad faith registration and use. Moreover, the misspelling of the trademark ARCELORMITTAL was intentionally designed to be confusingly similar with the Complainant’s trademark.

Furthermore, the MX servers are configured. Such making use of the disputed domain name, obviously in a potential fraudulent manner, neither qualifies as a bona fide nor as a legitimate noncommercial or fair use under the Policy and may not of itself confer rights or legitimate interests in the disputed domain name. The potential collection of personal data or passwords via phishing process being one possible fraudulent act (see CAC Case No. 104862).

The Respondent, for not responding to the complaint, has failed to demonstrate any activity in respect of the disputed domain names, and it is not possible to conceive of any plausible actual or contemplated active use of the disputed domain name by the Respondent that would not be illegitimate, by passing off, infringement of consumer protection legislation, or infringement of the Complainant’s rights under trademark law.

The Panel therefore considers that 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.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **arcelomrttal.com**: Transferred

PANELLISTS

Name	**David-Irving Tayer**

DATE OF PANEL DECISION 2024-08-22

Publish the Decision