Decision for dispute CAC-UDRP-106861

Case number	CAC-UDRP-106861
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Domain names	arcenlormittal.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	ARCELORMITTAL

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Organization	SSW

OTHER LEGAL PROCEEDINGS

The Panel is unaware of any other pending or decided legal proceedings in respect of the domain name <arcenlormittal.com> ('the disputed domain name').

IDENTIFICATION OF RIGHTS

The Complainant relies upon the following registered trade mark:

- International trade mark registration no. 947686, registered on 3 August 2007, for the word mark ARCELORMITTAL, in classes 6, 7, 9, 12, 19, 21, 39, 40, 41 and 42 of the Nice Classification.

(Referred to as 'the Complainant's trade mark', 'the Complainant's trade mark ARCELORMITTAL', or 'the trade mark ARCELORMITTAL').

The disputed domain name was registered on 10 September 2024. At the time of writing of this decision, it does not resolve to an active website (for present purposes, 'the Respondent's website').

FACTUAL BACKGROUND

A. Complainant's Factual Allegations

The Complainant's statements of fact can be summarised as follows:

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.

In addition to the trade mark mentioned in the section 'Identification of Rights', the Complainant also owns numerous domain names, including <arcelormittal.com>, which was registered in 2006.

B. Respondent's Factual Allegations

The Respondent has defaulted in this UDRP administrative proceeding and has therefore made no factual allegations.

PARTIES CONTENTIONS

A. Complainant's Submissions

The Complainant's contentions can be summarised as follows:

A.1 The disputed domain name is confusingly similar to a trade mark in which the Complainant has rights

The Complainant submits that the disputed domain name is confusingly similar to the Complainant's trade mark ARCELORMITTAL to the extent that the disputed domain name incorporates the Complainant's trade mark in its entirety. The misspelling of the Complainant's trade mark in the disputed domain name string is characteristic of the typosquatting practice, which does not prevent a finding of confusing similarity with the ARCELORMITTAL trade mark. Furthermore, the generic Top-Level Domain (TLD) suffix (<.com>) is typically disregarded in the assessment of identity or confusing similarity under paragraph 4(a) of the UDRP Policy.

A.2 The Respondent has no rights or legitimate interests in respect of the disputed domain name

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent does not carry out any activity for, or has any business with, the Complainant. Neither licence nor authorisation has been given to the Respondent to make any use of the Complainant's trade mark, or to apply for registration of the disputed domain name on the Complainant's behalf.

The Complainant also submits that the Respondent is not known by the disputed domain name.

Lastly, the Complainant avers that the disputed domain name is a typosquatted version of the ARCELORMITTAL trade mark, and that such practice evidences the Respondent's lack of rights of legitimate interest in the disputed domain name.

A.3 The Respondent registered and is using the disputed domain name in bad faith

A.3.1 Registration

The Complainant asserts that the trade mark ARCELORMITTAL is well-known and distinctive, and that its notoriety has been acknowledged in prior UDRP decisions, namely: CAC Case No. 101908, ARCELORMITTAL v China Capital; and CAC Case No. 101667, ARCELORMITTAL v Robert Rudd.

The Complainant further asserts that (i) the misspelling of the trade mark ARCELORMITTAL in the disputed domain name string was intentionally designed to be confusingly similar with the Complainant's trade mark; and (ii) given the distinctiveness and reputation of the trade mark ARCELORMITTAL, it is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trade mark ARCELORMITTAL.

A.3.2 Use

The Complainant avers that the Respondent has not demonstrated any activity in respect of the disputed domain name, which remains inactive. Furthermore, the Complainant claims that it is not possible to conceive any plausible actual or contemplated active use of the disputed domain name by the Respondent that would not be illegitimate, such as being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant's rights under trade mark law.

The Complainant further avers that prior WIPO UDRP panels have held that the incorporation of a famous trade mark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use.

In addition, the Complainant submits that the Respondent has configured the disputed domain name with an MX (mail exchange) record which suggests that it may be actively used for email purposes.

The Complainant therefore concludes that the Respondent has registered and is using the disputed domain name in bad faith.

B. Respondent's Submissions

The Respondent has defaulted in this UDRP administrative proceeding and has therefore failed to advance any substantive case on the merits.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown that the disputed domain name is identical or confusingly similar to a trade mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the UDRP 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 UDRP 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 UDRP 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

A. UDRP Threshold

Pursuant to Rule 15 of the UDRP Rules, the Panel shall decide a complaint based on the statements and documents submitted and in accordance with the UDRP Policy, the UDRP Rules, and any rules and principles of law that the Panel deems applicable.

Paragraph 4(a) of the UDRP Policy sets out the grounds which the Complainant must establish to succeed:

> i) The disputed domain name is identical or confusingly similar to a trade mark 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.

It is incumbent on the Complainant the onus of meeting the above threshold. The evidentiary standard under the UDRP administrative proceedings is the balance of probabilities and, on that basis, the Panel will now proceed to determine each of the three UDRP Policy grounds in turn.

B. Identical or Confusingly Similar

The Panel is satisfied that the Complainant has UDRP-relevant rights in the registered trade mark ARCELORMITTAL since at least 2007.

The disputed domain name is <arcenlormittal.com> and it consists of the term 'arcelormittal' and the adjacent keyboard letter 'n'. The additional letter 'n' has no material impact on the recognisability of the Complainant's trade mark within the disputed domain name string. In addition, the TLDs (in this case <.com>) are typically disregarded by UDRP panels under this UDRP Policy ground.

The Panel therefore finds that the Complainant has satisfied the first requirement of the UDRP Policy.

C. Rights or Legitimate Interests

The Respondent has defaulted in this UDRP administrative proceeding and the Panel is empowered to draw adverse inferences from the Respondent's silence (Rule 14 (b) of the UDRP Rules).

The Panel is convinced that the Respondent (as an individual, business, or other organisation) has not been commonly known by the disputed domain name, and it likewise has not been authorised by the Complainant to make any use of the disputed domain name.

The Panel finds on the undisputed evidence on record that the Respondent has made no use of the disputed domain name whether

for a bona fide offering of goods or services, or for a legitimate noncommercial or fair use.

The Panel therefore finds that the Complainant has satisfied the second requirement of the UDRP Policy.

D. Registered and Used in Bad Faith

The Panel has no hesitation in finding that the Respondent registered and has used the disputed domain name with full knowledge of, and intention to target, the Complainant. The case's factual matrix largely supports a presumption of bad faith: (i) the Complainant's trade mark's worldwide reputation; (ii) the obvious similarity between the disputed domain name and the Complainant's trade mark; (iii) the Respondent's failure to refute the Complainant's prima facie case; (iv) the provision of false contact information. In this instance, the Respondent appears to have used a false address in the Whois for the disputed domain name (in breach of its registration agreement); (v) the Respondent's attempt to gain reputational advantage by redirecting Internet users for a likely fraudulent purpose; and (vi) the implausibility of any good faith use to which the disputed domain name may be put.

The Respondent would therefore have engaged in the conduct described in paragraph 4(b)(iv) of the UDRP Policy.

In view of the above, the Panel finds that the Complainant has satisfied the third and final requirement of the UDRP Policy.

E. Decision

For the foregoing reasons, in accordance with paragraph 4(a) of the UDRP Policy and Rule 15 of the UDRP Rules, the Panel orders that the disputed domain name <arcenlormittal.com> be transferred to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **arcenlormittal.com**: Transferred

PANELLISTS

Name	**Yana Zhou**

DATE OF PANEL DECISION 2024-10-08

Publish the Decision