Decision for dispute CAC-UDRP-106815

Case number	CAC-UDRP-106815
Time of filing	2024-08-27 09:14:34
Domain names	arceloraccounting.com, arceloraudit.com, arceloronline.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	ARCELORMITTAL

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Organization	Natasha Kazanakis

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 names.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the international trademark registration no. 778212 "ARCELOR", registered on 25 February 2002 (hereinafter referred to as the "Trademark").

FACTUAL BACKGROUND

The Complainant, recognized as the world's largest steel-producing company and a market leader in steel applications for automotive, construction, household appliances, and packaging, reported a production of 58.1 million tons of crude steel in 2023. The company maintains substantial captive raw material supplies and operates extensive distribution networks. Information about the Complainant's products and services is available online at <arcelormittal.com>.

The disputed domain names were all registered on 22 August 2024 and are currently being used for "Coming soon" websites which are provided by the Respondent's hosting provider.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant argues that the disputed domain names are confusingly similar to the Trademark. The addition of the terms "accounting", "audit", and "online", respectively, are, according to the Complainant, insufficient to distinguish the disputed domain names from the Trademark.

Furthermore, the Complainant asserts that the Respondent lacks rights or legitimate interests in the disputed domain names. The Complainant points out that the Respondent is not associated with the disputed domain names, has no legitimate claim to it, is not affiliated with the Complainant's business, and is not authorized to use the Trademark. The Complainant also contends that the Respondent has no evident plans for legitimate use of the disputed domain names.

Lastly, the Complainant contends that the disputed domain names were registered and are being used in bad faith. The Complainant argues that their trademark is widely recognized and highly distinctive, making it reasonable to assume that the Respondent was aware of the trademark when registering the domain names. The Complainant also states that the Respondent has provided no evidence of any actual or contemplated good faith use by it of the disputed domain names 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. The Complainant finally argues that the disputed domain names has been set up with MX records which suggests that it may be actively used for e-mail purposes.

RESPONDENT:

No administratively compliant Response has been filed. However, the Respondent sent an email to Czech Arbitration Court on 27 August 2024, stating inter alia that it is “an accounting CPA firm”, that it “paid for the domain and legally obtained it in the US”, that the domain names “are completely different” and that the Respondent has a company “Arcelor Audit and Accounting.“ On 18 September 2024, the Respondent sent another email with the following content: "Hey there - I am willing to sell you my formed Company if this is such an issue. I cleared in US that my site is legit and everything is registered in accordance with regulation; however, it seems you desperately need this and willing to spend money on legal fees. You can pay me about $10,000 for the cost of formation of entity etc and I am willing to let go of the name and the site and that's the cost for me to reform and rebrand." The Respondent has not provided any evidence with regard to the alleged company name.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names are 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 names (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 names have been registered and are 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.

The Panel issued a Panel Order on 10 October 2024 giving the Respondent an opportunity to provide evidence regarding his alleged company "Arcelor Audit and Accounting" within a period of 5 calendar days after service of this Panel Order on the parties and giving the Complainant an opportunity to comment on this issue within a period of 10 calendar days after service of this Panel Order on the parties. None of the parties submitted comments.

PRINCIPAL REASONS FOR THE DECISION

Under paragraph 4(a) of the Policy, the Complainant must prove that each of the following three elements is present:

(i) the disputed domain names are identical or confusingly similar to the Complainant's trademark; and

(ii) the Respondent has no rights or legitimate interests in respect of the disputed domain names; and

(iii) the disputed domain names have been registered and are being used in bad faith.

1. The Panel acknowledges that the disputed domain names are indeed confusingly similar to the Trademark, as they fully incorporate the well-established Trademark. It is established that a domain name that entirely incorporates a trademark may still be considered confusingly similar to that trademark under the Policy, even when supplemented with generic terms like "accounting", "audit", or "online."

2. The Complainant has substantiated that the Respondent has no rights or legitimate interests in the disputed domain names. The Panel finds that the Complainant has fulfilled its obligations under paragraph 4(a)(ii) of the Policy.

The Respondent claimed to own a company “Arcelor Audit and Accounting” in the field of audit and accounting but failed to provide any evidence. In view of the lack of evidence, the Respondent was given the opportunity to provide further information on the existence of his alleged business name and to submit corresponding evidence. The Respondent did not make use of this opportunity. It is well established that wholly unsubstantiated conclusory allegations are not sufficient to support a party's case. The Respondent has therefore failed to establish any rights or legitimate interests in the disputed domain names.

Based on the evidence on file, the Panel cannot find any rights or legitimate interests of the Respondent either. In particular, the disputed domain names point to a placeholder website provided by the Respondent's registrar and the Respondent has not provided any evidence of use or demonstrable preparations for use of the disputed domain names. Accordingly, the Panel finds that the Complainant has proven that the Respondent has no rights or legitimate interests in respect of the disputed domain names under paragraphs 4(a)(ii) and 4(c) of the Policy.

3. The Panel is satisfied that the Respondent registered the disputed domain names with full knowledge of the Complainant and its rights in the Trademark as the Trademark is highly distinctive and very well established.

Regarding bad faith use, by utilizing the disputed domain names for a commercial landing page provided by the Respondent's registrar, the Respondent was, in all likelihood, trying to divert traffic intended for the Complainant’s website to its own for commercial gain as set out under paragraph 4(b)(iv) of the Policy. It is well-established that a respondent, as the registered owner of the domain name, bears ultimate responsibility for the information available on the website and all content posted there, regardless of its origin or the parties profiting from its commercial use. Furthermore, the Respondent offered to sell the disputed domain names for USD 10.000,00. The Panel considers it reasonable to infer that the Respondent’s primary motivation was to sell the disputed domain names to the Complainant for valuable consideration of its out-of-pocket costs directly related thereto. This constitutes evidence of registration and use in bad faith in terms of paragraph 4(b)(i) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **arceloraccounting.com**: Transferred
2. **arceloraudit.com**: Transferred
3. **arceloronline.com**: Transferred

PANELLISTS

Name	**Peter Müller**

DATE OF PANEL DECISION 2024-10-23

Publish the Decision