Decision for dispute CAC-UDRP-106954

Case number	CAC-UDRP-106954
Time of filing	2024-10-15 15:26:44
Domain names	arce-lor.shop

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	ARCELORMITTAL

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Organization	Sukhdev Singh Kang

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 relies on its rights as the owner and registered proprietor of the international trademark No. 947686, ArcelorMittal, registered on 03 August 2007 and since designated in over 45 countries and in classes 06,07,09,12,19,21,39,40,41 and 42.

It also relies on its extensive use in trade internationally, which makes it a well-known mark.

In common law jurisdictions it may have rights arising from use in trade.

The Complainant also owns a large domain name portfolio, including <arcelormittal.com> registered on 27 January 2006.

FACTUAL BACKGROUND

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 disputed domain name <arce-lor.shop> was registered on 05 October 2024.

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

There is no question that the Complainant and its mark are well-known. In terms of the similarity analysis, identity is a strict standard and here only the first word of the mark is included in the disputed domain name and with the addition of the hyphen. But this is enough for the similarity analysis. The gTLD is disregarded in this exercise and here it is in any event generic. The Complainant has shown the disputed domain name is confusingly similar to its trade name and mark.

As to fair and legitimate use, in many cases the content of the website in question will remove any doubt or compound it. Here there is no use and the disputed domain name resolves to a message that says “[the disputed domain name] is almost here.” It is a lot like a parking page but there is a commercial message. Parking is not always determinative. The prevailing view is that it is fact sensitive. Here, the Complainant says the non-use/parking demonstrates a lack of legitimate interests in respect of the disputed domain name. We do not know if the MX records for the disputed domain name had been configured. In any event, fundamentally, use of a domain name will not be considered “fair” if it falsely suggests affiliation with the trade mark owner.

When looking at bad faith - the focus is free-riding or taking unfair advantage of a Complainant’s mark. This can be established by any of the factors from the Policy at paragraph 4(b). Other panels have found as the Complainant contends “that the trademark ARCELORMITTAL is so well-known internationally for metals and steel production that it is inconceivable that the Respondent might have registered a domain name similar to or incorporating the mark without knowing of it,” see WIPO Case No. DCO2018-0005, ArcelorMittal SA v. Tina Campbell.

Here only the first word is used and with a hyphen. But there is only one very famous company and the first word is enough for the Complainant to be referenced. We also know from trade mark law that consumers pay more attention to the start of marks than the end. The Respondent is trying to leverage and free-ride on the Complainant's fame and reputation to harvest traffic. The Respondent has not come forward with another explanation for its selection. Where a mark is famous and there is no obvious reason for its selection and the Respondent has not come forward to explain, it will often be reasonable to find bad faith. See WIPO case, Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003. Therefore, the Panel finds that the Respondent registered the disputed domain name in bad faith and is also using it in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **arce-lor.shop**: Transferred

PANELLISTS

Name	**Victoria McEvedy**

DATE OF PANEL DECISION 2024-11-18

Publish the Decision