Decision for dispute CAC-UDRP-106983

Case number	CAC-UDRP-106983
Time of filing	2024-10-22 10:14:48
Domain names	arcelormital.online

Case administrator

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

Complainant

Organization	ARCELORMITTAL

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Organization	coccorepublic

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 ARCELORMITTAL with registration No. 947686, registered on August 03, 2007 for goods and services in International Classes 6, 7, 9, 12, 19, 21, 39, 40, 41 and 42 (the “ARCELORMITTAL trademark”).

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 tonnes crude steel made in 2023. The Complainant also owns the domain name <arcelormittal.com> registered since 27 January 2006, which it uses for its official website.

The disputed domain name was registered on October 21, 2024. It is currently inactive. At the time of filing of the Complaint, the disputed domain name resolved to a parking webpage of the Registrar and had e-mail exchange (“MX”) records enabled.

PARTIES CONTENTIONS

COMPLAINANT

The Complainant contends that the disputed domain name is confusingly similar to the ARCELORMITTAL trademark, which it includes in its entirety. The Complainant asserts that the disputed domain name represents an obvious misspelling of the Complainant's trademark through the deletion of the letter "t", and is characteristic of a typosquatting practice intended to create a confusing similarity between the Complainant's trademark and the disputed domain name.

The Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name, as it is not commonly known under it and is not related in any way with the Complainant, who has not given any authorization to the Respondent to use the Complainant's ARCELORMITTAL trademark or to apply for registration of the disputed domain name. The Complainant points out that the disputed domain name is a typosquatted version of the ARCELORMITTAL trademark and claims that it was registered in an attempt to take advantage of Internet users' typographical errors. The Complainant adds that Respondent does not use the disputed domain name as it resolves to a parking webpage of the Registrar.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. According to the Complainant, its ARCELORMITTAL trademark is distinctive and widely known, so it is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademark and that the misspelling of the ARCELORMITTAL trademark was intentionally designed to confuse Internet users. The Complainant contends that the Respondent has not demonstrated any activity in respect of the disputed domain name and that it is impossible to conceive of any plausible actual or contemplated active use of it 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.

Finally, the Complainant submits that MX records are configured for the disputed domain name, which suggests that it may be actively used for e-mail purposes. According to the Complainant, it is inconceivable that the Respondent would be able to use the disputed domain name as part of an e-mail address in good faith.

RESPONDENT:

The Respondent did not submit a Response in this proceeding.

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

Pursuant to the Policy, paragraph 4(a), a complainant must prove each of the following to justify the transfer of a domain name:

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

(ii) the respondent has no rights or legitimate interests in respect of the domain name; and

(iii) the domain name was registered and is being used in bad faith.

In this case, the Provider has employed the required measures to achieve actual notice of the Complaint to the Respondent, and the Respondent was given a fair opportunity to present its case.

By the Rules, paragraph 5(c)(i), it is expected of a respondent to: "[r]espond specifically to the statements and allegations contained in the complaint and include any and all bases for the Respondent (domain name holder) to retain registration and use of the disputed domain name …"

In this proceeding, the Respondent has not used the opportunity provided to it under the Rules and has not submitted a substantive Response addressing the contentions of the Complainant and the evidence submitted by it.

Identical or confusingly similar

The Complainant has provided evidence and has thus established its rights in the ARCELORMITTAL trademark.

The Panel notes that a common practice has emerged under the Policy to disregard in appropriate circumstances the general Top-Level Domain ("gTLD") section of domain names for the purposes of the comparison under the Policy, paragraph 4(a)(i). The Panel sees no reason not to follow the same approach here, so it will disregard the ".online" gTLD section of the disputed domain name.

The disputed domain name reproduces the ARCELORMITTAL trademark entirely with the omission of the letter "t", which makes it an obviously misspelled version of the trademark, which remains easily recognizable in the disputed domain name. As discussed in section 1.9 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (the "WIPO Overview 3.0"), a domain name that consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element.

Taking all the above into account, the Panel finds that the disputed domain name is confusingly similar to the ARCELORMITTAL trademark in which the Complainant has rights.

Rights and legitimate interests

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often-impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name, because it has not been authorized to use the ARCELORMITTAL trademark and is not commonly known under the disputed domain name, which represents a typosquatted version of the Complainant's trademark. According to the Complainant, the Respondent is not using the disputed domain name for a website, but has enabled it to be used for email communications, which may lead to confusion in Internet users. Thus, the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name.

The Respondent has not submitted a Response and has not provided any legitimate reasons why it has registered the disputed domain name.

In the Panel's view, the circumstances of this case do not support a finding that the Respondent has rights and legitimate interests in the disputed domain name. It represents a typosquatted version of the ARCELORMITTAL trademark, which may create an impression in Internet users that it is related to the Complainant. The evidence submitted by the Complainant shows that MX servers have been set up for the disputed domain name, so it may be used for e-mail communications. Recipients of e-mail messages from accounts at the disputed domain name may be confused that they are receiving communications from the Complainant.

In the lack of any arguments or evidence to the contrary, the above leads the Panel to the conclusion that it is more likely than not that the Respondent, being well aware of the goodwill of the Complainant's ARCELORMITTAL trademark, has registered the disputed domain name targeting this trademark in an attempt to exploit its goodwill by confusing Internet users that eventual correspondence they receive from email accounts activated with the disputed domain name originates from or is connected to the Complainant. The Panel does not regard such activities as giving rise to rights or legitimate interests in the disputed domain name.

Therefore, the Panel finds that the Respondent does not have rights or legitimate interests in the disputed domain name.

Bad faith

Paragraph 4(b) of the Policy lists four illustrative alternative circumstances that shall be evidence of the registration and use of a domain name in bad faith by a respondent, namely:

“(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the 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 your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the 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 you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location.”

As discussed in section 3.1.4 of the WIPO Overview, panels have consistently found that the mere registration of a domain name that represents a typosquatted version of a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith.

The registration of the distinctive ARCELORMITTAL trademark predates by seventeen years the registration of the disputed domain name. It represents a typosquatted version of the same trademark, and Internet users may associate it with the Complainant. The Panel therefore considers that the Respondent is more likely to have registered the disputed domain name with knowledge of the Complainant’s trademark rights and with the intention of taking advantage of its goodwill.

The evidence shows that it is has MX records activated, so it may be used for e-mail communication. Since the composition of the disputed domain name makes it appear as belonging to the Complainant, Internet users receiving messages from e-mail accounts at the disputed domain name are likely to mistakenly believe that they are communicating with the Complainant.

The Respondent has not provided any plausible explanation of its choice and use of the disputed domain name, and given the circumstances of this case, the Panel is not aware of any good faith use to which the disputed domain name may be put.

This satisfies the Panel that the disputed domain name has been registered and used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **arcelormital.online**: Transferred

PANELLISTS

Name	**Assen Alexiev**

DATE OF PANEL DECISION 2024-11-23

Publish the Decision