

## Decision for dispute CAC-UDRP-107063

Case number **CAC-UDRP-107063**

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Time of filing **2024-11-14 09:47:06**

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Domain names **arcelormittalbe.com**

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### Case administrator

Name **Olga Dvořáková (Case admin)**

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### Complainant

Organization **ARCELORMITTAL**

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### Complainant representative

Organization **NAMESHIELD S.A.S.**

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### Respondent

Name **Selin Koca**

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#### 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.

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#### IDENTIFICATION OF RIGHTS

The Complainant is the owner of, inter alia, the international trademark ARCELORMITTAL n° 947686 registered on August 3, 2007 for metals.

The Complainant also owns a domain name portfolio of domain names containing its mark, such as the domain name <arcelormittal.com> registered since January 27, 2006.

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#### FACTUAL BACKGROUND

The Complainant is a large company producing steel for use in automotive, construction, household appliances and packaging with 58.1 million tons crude steel made in 2023. It operates extensive distribution networks.

The disputed domain name was registered on November 12, 2024 and resolves to a parking page with commercial links. MX servers are configured.

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#### PARTIES CONTENTIONS

## Complainant

### **A. The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights**

The Complainant contends that the disputed domain name is confusingly similar to the trademark ARCELORMITTAL. Indeed, the disputed domain name includes it in its entirety.

The Complainant asserts that the addition of the geographical term "BE" (for BELGIUM) is not sufficient to escape the finding that the disputed domain name is confusingly similar to the trademark and branded goods ARCELORMITTAL. It does not change the overall impression of the designation as being connected to the Complainant's trademark ARCELORMITTAL. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and the associated domain name. It is well established that *"a domain name that wholly incorporates a Complainant's registered trademark may be sufficient to establish confusing similarity for purposes of the UDRP"*. Please see WIPO Case No. D2003-0888, *Dr. Ing. h.c. F. Porsche AG v. Vasilij Terkin*.

Furthermore, the Complainant contends that the addition of the gTLD ".COM" does not change the overall impression of the disputed domain name as being connected to the Complainant's trademark. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and its associated domain names. Please see WIPO Case No. D2006-0451, *F. Hoffmann-La Roche AG v. Macalve e-dominios S.A.* (*"It is also well established that the specific top level of a domain name such as ".com", ".org" or ".net" does not affect the domain name for the purpose of determining whether it is identical or confusingly similar."*).

Consequently, the disputed domain name is confusingly similar to Complainant's trademark ARCELORMITTAL.

### **B. The Respondent has no rights or legitimate interests in respect of the disputed domain name**

According to WIPO Case No. D2003-0455 *Croatia Airlines d. d. v. Modern Empire Internet Ltd.*, the Complainant is required to make out a *prima facie* case that the Respondent lacks rights or legitimate interests. Once such *prima facie* case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the disputed domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a) (ii) of the UDRP.

The Complainant asserts that the Respondent is not identified in the Whois database as the disputed domain name. Past panels have held that a Respondent was not commonly known by a disputed domain name if the Whois information was not similar to the disputed domain name. Thus, the Respondent is not known as the disputed domain name (Forum Case No. FA 1781783, *Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group <bobsfromsketchers.com>* (*"Here, the WHOIS information of record identifies Respondent as "Chad Moston / Elite Media Group." The Panel therefore finds under Policy ¶ 4(c)(ii) that Respondent is not commonly known by the disputed domain name under Policy ¶ 4(c)(ii)."*)).

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name and he is not related in any way with the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent.

Neither license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark ARCELORMITTAL, or apply for registration of the disputed domain name.

The disputed domain name resolves to a parking page with commercial links. Past panels have found this is not a bona fide offering of goods or services or legitimate non-commercial or fair use.

Thus, in accordance with the foregoing, the Complainant contends that the Respondent has no rights or legitimate interest in respect of the disputed domain name.

### **C. The disputed domain name was registered and are being used in bad faith**

The Complainant's trademark ARCELORMITTAL is widely known. Past panels have confirmed the notoriety of the trademark ARCELORMITTAL in the following cases:

- CAC Case No. 101908, *ARCELORMITTAL v. China Capital* (*"The Complainant has established that it has rights in the trademark "ArcelorMittal", at least since 2007. The Complainant's trademark was registered prior to the registration of the disputed domain name (February 7, 2018) and is widely well-known."*)
- CAC Case No. 101667, *ARCELORMITTAL v. Robert Rudd* (*"The Panel is convinced that the Trademark is highly distinctive and well-established."*).

Thus, given the distinctiveness of the Complainant's trademark and reputation, it is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademark. Please see WIPO Case No. DCO2018-0005, *ArcelorMittal SA v. Tina Campbell* (*"The Panel finds 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."*).

Furthermore, the disputed domain name points to a parking page with commercial links. The Complainant contends the Respondent has attempted to attract Internet users for commercial gain to his own website thanks to the Complainant's trademarks for its own commercial gain, which is an evidence of bad faith.

WIPO Case No. D2018-0497, StudioCanal v. Registration Private, Domains By Proxy, LLC / Sudjam Admin, Sudjam LLC (“In that circumstance, whether the commercial gain from misled Internet users is gained by the Respondent or by the Registrar (or by another third party), it remains that the Respondent controls and cannot (absent some special circumstance) disclaim responsibility for, the content appearing on the website to which the disputed domain name resolve [...] so the Panel presumes that the Respondent has allowed the disputed domain name to be used with the intent to attract Internet users for commercial gain, by creating a likelihood of confusion with the Complainant's trademark as to the source, affiliation, or endorsement of the Respondent's website to which the disputed domain name resolves. Accordingly, the Panel finds that the disputed domain name was registered and is being used in bad faith.”).

Finally, although the disputed domain name appears to be unused, it has been set up with MX records which suggests that it may be actively used for email purposes. Please see similar case CAC Case No. 102827, *JCDECAUX SA v. Handi Hariyono* (“*There is no present use of the disputed domain name but there are several active MX records connected to the disputed domain name. It is concluded that it is inconceivable that the Respondent will be able to make any good faith use of the disputed domain name as part of an e-mail address.*”).

On those facts, the Complainant contends that Respondent has registered the disputed domain name and is using it in bad faith.

## **Response**

No administratively compliant Response has been filed.

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### 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).

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### 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).

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### 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).

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### PROCEDURAL FACTORS

The Respondent sent an email to the Center after the time period for submitting a response lapsed. The email stated “Thank you for your e-mail. I haven’t realised that this domain is related to an existing company. The domain was not in use so I can confirm it will be deleted. Thanks and regards..”. This communication was not deemed as an administratively compliant response.

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.

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### PRINCIPAL REASONS FOR THE DECISION

The disputed domain name registered in 2024 is confusingly similar to the Complainant's prior ARCELLORMITTAL registered mark (registered as an international trade mark since 2007 as outlined above) adding only the generic country code 'be' commonly used to indicate Belgium and the gTLD .com the addition of neither of which avoids said confusing similarity.

The Respondent has not answered the Complaint or rebutted the prima facie case evidenced by the Complainant.

The Respondent is not authorised by the Complainant or commonly known by the disputed domain name.

The dispute domain name carries a high risk of affiliation with the Complainant and has been used to link to the businesses of third parties not connected to the Complainant which is not a bona fide offering of goods or services. The use of the disputed domain name is commercial so cannot be legitimate non commercial fair use.

The use of the disputed domain name is registration and use in opportunistic bad faith diverting Internet users for commercial gain and

disrupting the Complainant's business.

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FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

**Accepted**

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

1. **arcelormittalbe.com**: Transferred

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## **PANELLISTS**

Name	<b>Dawn Osborne</b>
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DATE OF PANEL DECISION 2024-12-10

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Publish the Decision

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