Decision for dispute CAC-UDRP-107189

Case number	CAC-UDRP-107189
Time of filing	2024-12-17 09:49:11
Domain names	arcelor-mlttal.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	ARCELORMITTAL

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	xavier eliann

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 registration number 947686 for the ARCELORMITTAL mark, registered on August 3, 2007.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Complainant is one of the largest steel-producing companies in the world and is the market leader in steel for use in automotive, construction, household appliances, and packaging. It holds sizeable captive supplies of raw materials and operates extensive distribution networks. With 126,756 employees, the Complainant is a global steel manufacturing leader, fostering a community driven by innovation and excellence. Operating in 15 countries and serving customers in 140 nations, the Complainant is committed to pushing boundaries in sustainable and advanced steel solutions. In 2023, the Complainant mined 42 million tons of iron ore and produced 58.1 million tons of crude steel, shipping 55.6 million tons worldwide. The Complainant's research network includes 14 centers with 1,700 full-time researchers working on over 100 active R&D programs.

The Complainant is the owner of the trademark mentioned above. The Complainant also owns a portfolio of domain names, including the domain name <arcelormittal.com>, which has been registered since January 27, 2006.

The disputed domain name was registered on December 12, 2024, and resolves to a registrar parking page. Additionally, MX servers are configured.

PARTIES CONTENTIONS

COMPLAINANT:

(i) The Complainant has rights in the mark ARCELORMITTAL (international trademark registration number 947686, registered on August 3, 2007). The disputed domain name is confusingly similar to the Complainant's trademark ARCELORMITTAL due to the obvious misspelling of the Complainant's trademark (i.e., the addition of a dash and the substitution of the letter "I" with the letter "L"), which is characteristic of a typosquatting practice intended to create a confusing similarity between the Complainant's trademark and the disputed domain name. The addition of the ".COM" gTLD does not alter the overall impression of the designation as being connected to the Complainant's trademark.

(ii) The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is not commonly known by the disputed domain name. The Complainant is not related in any way to the Respondent and does not conduct any activity for, nor has any business relationship with, the Respondent. No license or authorization has been granted to the Respondent to use the Complainant's trademark ARCELORMITTAL or to apply for the registration of the disputed domain name. The disputed domain name is a typosquatted version of the trademark ARCELORMITTAL. Typosquatting, which involves registering a domain name to exploit typographical errors made by Internet users, evidences that the Respondent lacks rights and legitimate interests in the disputed domain name. Furthermore, the disputed domain name resolves to a parking page.

(iii) The Respondent has registered and is using the disputed domain name in bad faith. Given the distinctiveness and reputation of the Complainant's trademark, it is reasonable to infer that the Respondent registered the disputed domain name with full knowledge of the Complainant's trademark. The Complainant asserts that the misspelling of the trademark ARCELORMITTAL was intentionally designed to create confusing similarity with the Complainant's trademark. The disputed domain name resolves to a parking page and is configured with MX records, suggesting potential use for email purposes, which may further indicate bad faith.

RESPONDENT:

The Respondent did not submit a Response.

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

Paragraph 15(a) of the Rules for the UDRP ('the Policy') instructs this Panel to "decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable."

Paragraph 4(a) of the Policy requires that the complainant must prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

(1) the domain name registered by the respondent is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and

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

(3) the domain name has been registered and is being used in bad faith.

In view of the Respondent's failure to submit a response, the Panel shall decide this administrative proceeding on the basis of the Complainant's undisputed representations pursuant to paragraphs 5(f), 14(a) and 15(a) of the Rules and draw such inferences it considers appropriate pursuant to paragraph 14(b) of the Rules. The Panel is entitled to accept all reasonable allegations and inferences set forth in the Complaint as true unless the evidence is clearly contradictory. See Vertical Solutions Mgmt., Inc. v. webnet-marketing, inc., FA 95095 (Forum July 31, 2000) (holding that the respondent's failure to respond allows all reasonable inferences of fact in the allegations of the complaint to be deemed true); see also Talk City, Inc. v. Robertson, D2000-0009 (WIPO February 29, 2000) ("In the absence of a response, it is appropriate to accept as true all allegations of the Complaint.").

Rights

The Complainant contends that it has rights in the mark ARCELORMITTAL (international trademark registration number 947686, registered on August 3, 2007). The Complainant has provided a copy of the trademark registration at issue. Registration of a mark with an international trademark organization sufficiently establishes the required rights in the mark for the purposes of the Policy. Accordingly, the Panel finds that the Complainant has established its rights in the mark ARCELORMITTAL.

The Complainant further contends that the disputed domain name is confusingly similar to the Complainant's trademark ARCELORMITTAL. The Panel notes that the disputed domain name fully incorporates the Complainant's ARCELORMITTAL mark, with the addition of a dash and the substitution of the letter "I" with the letter "L," as well as the ".COM" gTLD. The Panel observes that adding a dash, substituting one letter for another, and appending a gTLD do not negate the confusing similarity. Therefore, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark ARCELORMITTAL under Policy paragraph 4(a)(i).

THE RESPONDENT HAS NO RIGHTS OR LEGITIMATE INTERESTS IN RESPECT OF THE DISPUTED DOMAIN NAME

A complainant must first make a prima facie case that a respondent lacks rights and legitimate interests in the disputed domain name under Policy paragraph 4(a)(ii), after which the burden shifts to the Respondent to demonstrate it does have rights or legitimate interests. See Section 2.1, WIPO Jurisprudential Overview 3.0 ("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 argues that the Respondent has no rights or legitimate interests in the disputed domain name because the Respondent is not commonly known by the disputed domain name, nor has the Respondent been authorized by the Complainant to use the Complainant's mark, and the Respondent is not affiliated with the Complainant. Relevant information, such as WHOIS data, can serve as evidence to demonstrate whether a respondent is or is not commonly known by the disputed domain name under Policy paragraph 4(c)(ii). The Panel notes that the WHOIS data lists "xavier eliann" as the registrant, and there is no evidence in the record indicating that the Respondent was authorized to use the mark. Therefore, the Panel finds that the Respondent is not commonly known by the disputed domain name under Policy paragraph 4(c)(ii).

Next, the Complainant contends that the disputed domain name is a typosquatted version of the trademark ARCELORMITTAL. Typosquatting involves registering a domain name to exploit typographical errors made by Internet users and may serve as evidence that a respondent lacks rights or legitimate interests in the domain name. The Complainant also asserts that the disputed domain name resolves to a parking page.

The Panel observes that failure to make active use of a website does not constitute a bona fide offering of goods or services or a legitimate or fair use under Policy paragraph 4(c)(i) and (iii). See CrossFirst Bankshares, Inc. v. Yu-Hsien Huang, FA 1785415 (Forum June 6, 2018) ("Complainant demonstrates that Respondent fails to actively use the disputed domain name as it resolves to an inactive website. Therefore, the Panel finds that Respondent fails to actively use the disputed domain name for a bona fide offering of goods or services or legitimate noncommercial or fair use under Policy paragraph 4(c)(i) or (iii)."). The Complainant has provided screenshot evidence of the resolving website. Accordingly, the Panel finds that the Respondent fails to use the disputed domain name in connection with a bona fide offering of goods or services or legitimate or fair use per Policy paragraph 4(c)(i) and (iii).

Based on these considerations, the Panel finds that the Complainant has made out a prima facie case. Since the Respondent has not filed a response or otherwise attempted to rebut the prima facie case against it, the Panel concludes that the Respondent has no rights or legitimate interests in the disputed domain name under Policy paragraph 4(a)(ii).

Bad faith

Paragraph 4(b) of the Policy provides a non-exclusive list of circumstances that evidence registration and use of a domain name in bad faith. Any one of the following is sufficient to support a finding of bad faith:

(i) circumstances indicating that the respondent has registered or 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 the complainant, for valuable consideration in excess of the respondent's documented out-of- pocket costs directly related to the domain name; or

(ii) the respondent has 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 the respondent has engaged in a pattern of such conduct; or

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

(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its 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 the respondent's website or location of a product or service on the respondent's website or location.

The Complainant contends that the disputed domain name resolves to a parking page and has submitted a screenshot of the disputed domain name's resolving website as evidence. The Panel agrees that the passive holding of a domain name does not necessarily preclude a finding of bad faith use under paragraph 4(a)(iii) of the Policy. See Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003 (holding that, in assessing whether the passive holding of a domain name following its bad faith registration satisfies the requirements of paragraph 4(a)(iii), the panel must carefully consider all relevant circumstances, and a remedy can be granted only if those circumstances demonstrate that the respondent's passive holding amounts to acting in bad faith).

The particular circumstances of this case considered by the Panel include:

(i) The Complainant is one of the largest steel-producing companies in the world and a market leader in steel for use in automotive, construction, household appliances, and packaging. It operates extensive distribution networks, employs 126,756 individuals, and serves customers in 140 nations. The Complainant's global presence, production capabilities, and innovation-driven community underscore the reputation of the ARCELORMITTAL mark as well-known and reputable.

(ii) The Respondent has configured the disputed domain name with multiple MX (mail exchange) records, which suggests potential email use.

(iii) The Respondent has provided no evidence of any actual or contemplated good faith use of the disputed domain name.

Considering these factors, the Panel concludes that the Respondent's passive holding of the disputed domain name constitutes bad faith under Policy paragraph 4(a)(iii), and that the Respondent is using the disputed domain name in bad faith.

The Complainant also asserts that the distinctiveness and reputation of its trademark ARCELORMITTAL make it reasonable to infer that the Respondent registered the disputed domain name with full knowledge of the Complainant's trademark. While constructive knowledge alone is insufficient to establish bad faith under paragraph 4(a)(iii), actual knowledge of another's trademark rights at the time of registration, evidenced by the trademark's notoriety and the Respondent's use of the domain name, is sufficient. See Orbitz Worldwide, LLC v. Domain Librarian, FA 1535826 (Forum February 6, 2014) ("Although the UDRP does not recognize 'constructive notice' as sufficient for finding Policy paragraph 4(a)(iii) bad faith, the Panel finds actual knowledge through the name used for the domain and its use."); see also AutoZone Parts, Inc. v. Ken Belden, FA 1815011 (Forum December 24, 2018) ("Respondent's knowledge can be presumed given the fame and notoriety of the AUTOZONE mark and Complainant's position as the largest retailer in its field. This demonstrates bad faith registration and use under Policy paragraph 4(a)(iii).").

The Panel agrees and infers, based on the notoriety of the Complainant's trademark and the configuration of the disputed domain name, that the Respondent had actual knowledge of the Complainant's rights in its ARCELORMITTAL mark at the time of registration. Consequently, the Panel finds that the Respondent's registration and use of the disputed domain name were undertaken in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **arcelor-mlttal.com**: Transferred

PANELLISTS

Name	**Mr. Ho-Hyun Nahm Esq.**

DATE OF PANEL DECISION 2025-01-08