Decision for dispute CAC-UDRP-107188

Case number	CAC-UDRP-107188
Time of filing	2024-12-16 18:12:11
Domain names	arcelormittall.cam

Case administrator

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

Complainant

Organization	ARCELORMITTAL

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	Abugattas Aguad Thomas

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 No. 947686 ARCELORMITTAL® registered on August 3, 2007 at classes 06, 07, 09, 12, 19, 21, 39, 40 41 & 42. In addition, the Complainant owns the domain name <arcelormittal.com> created on January 26, 2006.

FACTUAL BACKGROUND

FACTS PROVIDED BY THE COMPLAINANT:

The Complainant is a company specialized in steel producing in the world and it 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 Complainant is the owner of the trademark ARCELORMITTAL® and the domain name <arcelormittal.com>.

The disputed domain name <arcelormittall.cam> (hereinafter, the “Disputed Domain Name”) was registered on December 12, 2024 by Abugattas Aguad based in Latvia and it resolves to an index page with active .MX records.

According to Complainant’s non-contested allegations, the Respondent has no rights or legitimate interest in respect of the Disputed Domain Name and he is not related in any way to the Complainant’s business.

For the purpose of this case, the Registrar confirmed that the Respondent is the current registrant of the Disputed Domain Name and that the language of the registration agreement is English.

Respondent did not reply to the Complaint.

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

PARTIES CONTENTIONS

COMPLAINANT:

First element: Similarity

The Complainant confirms that the Disputed Domain Name <arcelormittall.cam> is confusingly similar to its trademark ARCELORMITTAL® and its domain associated.

The Complainant states that the obvious misspelling of the Complainant’s trademark ARCELORMITTAL (i.e. the addition of the letter “L”) is characteristic of a typosquatting practice intended to create confusing similarity between the Complainant’s trademark and the Disputed Domain Name. In this vein, the Complainant indicates that he slight spelling variations does not prevent a domain name from being confusing similar to the Complainant’s trademark.

Furthermore, the Complainant contends that the addition of the suffix “.CAM” does not change the overall impression of the designation 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 domain name associated.

Second element: Rights or legitimate interest

The Complainant contends that the Respondent is not identified in the Whois database as the Disputed Domain Name. The Complainant also 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 by the Complainant.

Moreover, the Complainant also claims that the Disputed Domain Name is a typosquatted version of the trademark ARCELORMITTAL. Typosquatting is the practice of registering a domain name in an attempt to take advantage of Internet users’ typographical errors and can evidence that a respondent lacks rights and legitimate interests in the domain name.

Furthermore, the Disputed Domain Name resolves to an index page. The Complainant contends that Respondent did not make any use of Disputed Domain Name, and it confirms that Respondent has no demonstrable plan to use the Disputed Domain Name. It proves a lack of legitimate interests in respect of the Disputed Domain Name except in order to create a likelihood of confusion with the Complainant and its trademark.

Third element: Bad faith

The Complainant contends that the Disputed Domain Name <arcelormittall.cam> is confusingly similar to its distinctive trademark ARCELORMITTAL®.

The Complainant indicates that the Complainant’s trademark ARCELORMITTAL® is widely known by showing UDRP decisions issued by different UDRP panelist where the well-known status of the trademark ARCELORMITTAL® for metal and steel production has been confirmed. Given the distinctiveness of the Complainant's trademark and reputation, the Complainant confirms that it is reasonable to infer that the Respondent has registered the Disputed Domain Name with full knowledge of the Complainant's trademark. Moreover, the Complainant states the misspelling of the trademark ARCELORMITTAL® was intentionally designed to be confusingly similar with the Complainant’s trademark.

Furthermore, the Disputed Domain Name resolves to an index page. The Complainant contends that the Respondent has not demonstrated any activity in respect of the Disputed Domain Name, and it is not possible to conceive of any plausible actual or contemplated active use of the Disputed Domain Name 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 Disputed Domain Name has been set up with MX records, which suggests that it may be actively used for e-mail purposes.

RESPONDENT

Respondent did not reply to the Complaint.

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

- **THE DISPUTED DOMAIN NAME IS CONFUSINGLY SIMILAR TO THE TRADEMARK ARCELORMITTAL® OF THE COMPLAINANT.**

The Uniform Domain Name Dispute Resolution Policy (the Policy) in its Paragraph 4(a)(i) indicates the obligation of Complainant to demonstrate that the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights.

The Complainant has submitted evidence showing the ownership of the international trademark No. 947686 ARCELORMITTAL® registered on August 3, 2007 at classes 06, 07, 09, 12, 19, 21, 39, 40 41 & 42.

From the Panel's perspective, the Disputed Domain Name **<arcelormittall.cam>** is composed of almost all letters of the trademark "ARCELORMITTAL" with the additional of the letter "L" at the end of the Disputed Domain Name. From the Panel's perspective, this an intentional misspelling of Complainant's trademark and a clear typosquatting case where internet users searching for "<arcelormittall.com>" might wrongly type twice the letter "L" in the keyboard and by doing so, they would end up at Respondent's website "**<arcelormittall.cam>**". (See, e.g., Sanofi. v. Domains By Proxy, LLC /domain admin, WIPO Case No. D2013-0368: "The Domain Name consists of the SANOFI Mark with the letter "o" replaced by the letter "i". The replacement of "o" with "i" does not operate to prevent a finding of confusing similarity between the SANOFI Mark and the Domain Name especially in circumstance where the letters "o" and "i" are right next to each other on a typical "qwerty" keyboard, meaning that a single slip of the fingers would result in an Internet user who intended to visit the Complainant's website at www.sanofi.com visiting the Respondent's Website instead").

Furthermore, previous panels have found that special attention should be taken with domain names where the difference in spelling is so insignificant that it is hardly noticeable and does not change the distinctive character of the mark in question. See, e.g., BOURSORAMA SA v. francois goubert , CAC Case No. 104595: " This also applies to domain names where the difference in spelling is so insignificant that it is hardly noticeable and does not change the distinctive character of the mark in question. Most readers would be hard put to quickly spot the difference between "BOURSORAMA" and "BOUSORAMA". This takes some analysis, especially at the mind reads what it expects to see from previous experience. In this case, that expectation would be to read the well-known word "BOURSORAMA").

Lastly, the addition of the applicable Top-Level Domain Name ".cam" in a domain is considered as a standard registration requirement and, therefore, it should be disregarded under the first element confusing similarity test (see paragraph 1.11 WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition "WIPO Overview 3.0").

Therefore, the Panel concludes that the Complainant has satisfied the requirement under paragraph 4(a)(i) of the Policy and the Disputed Domain Name is confusingly similar to Complainant's mark.

- RESPONDENT'S LACK OF RIGHTS OR LEGITIMATE INTERESTS IN THE DISPUTED DOMAIN NAME.

The second element of the Policy requires that the Complainant establishes that the Respondent has no rights or legitimate interests in the Disputed Domain Name. The generally adopted approach by UDRP panels, when considering the second element, is that if a complainant makes out a prima facie case, the burden of proof shifts to the respondent to rebut it (see WIPO Jurisprudential Overview, version 3.0., paragraph 2.1).

The Complainant indicates that the Respondent is not affiliated nor authorized in any way to use the trademark ARCELORMITTAL®. Furthermore, the Complaint argues that it does not carry out any activity for, nor has any business with the Respondent. Finally, the Complainant has not granted a license or authorization to the Respondent to make any use of the trademark ARCELORMITTAL®.

From the information provided by Complainant, there is no evidence or reason to believe that the Respondent (as individual, business or other organization) has been commonly known by the Disputed Domain Name. The Respondent's name "Abugattas Aguad" provided in the Registrar's verification is all what it links the Disputed Domain Name with the Respondent. Absent of any other evidence such as a personal name, nickname or corporate identifier, the Panel is of the opinion that the Respondent is not commonly known by the Disputed Domain Name.

The Complainant also mentioned that the Disputed Domain Name is a typosquatted version of the trademark ARCELORMITTAL®. In this regard, UDRP panels have confirmed in different decisions that when typosquatting is occurring then this can be considered as additional evidence that Respondent has no right or legitimate interest under the Policy. (See, e.g., Pentair Flow Services AG v. Scott Fisher, CAC Case No. 103931. "Since typosquatting is a practice of registering a domain name in an attempt to take advantage of internet user's typographical errors, this circumstance is also evidence that the Respondent lacks rights and legitimate in the disputed domain name").

The Complainant stated that website associated with the Disputed Domain Name resolves to an index website. Different panels have confirmed that the lack of content at the disputed domain name can be considered as a finding that Respondent does not have bona fide offering of goods and services (see, for example, Forum Case No. FA 1773444, Ashley Furniture Industries, Inc v. Joannet Macket/JM Consultants).

The fact that Respondent did not reply to the Complaint gives an additional indication that Respondent lacks rights or legitimate interest since Respondent did not provide with evidence of the types specified in paragraph 4 (c) of the Policy, or of any circumstances, giving rise to rights or legitimate interests in the Disputed Domain Name.

Therefore, the Panel concludes that neither the Respondent nor the evidence establishes that the Respondent has any right or legitimate interest to the Disputed Domain Name. The Complainant has therefore also satisfied the requirement under paragraph 4(a)(ii) of the Policy.

- THE DISPUTED DOMAIN NAME HAS BEEN REGISTERED AND IS BEING USED IN BAD FAITH IN ACCORDANCE WITH THE POLICY.

Paragraph 4(a)(iii) of the Policy indicates that Complainant must assert that the Respondent registered and is using the Disputed Domain Name in bad faith. In this sense, Paragraph 4(b) of the Policy sets out four circumstances which if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

(i) circumstances indicating that the Respondent has registered or acquired the Disputed Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Disputed 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 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 Respondent has engaged in a pattern of such conduct; or

(iii) The Respondent has registered the Disputed Domain Name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the Disputed Domain Name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's website or other on-line 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 or of a product.

The evidence submitted by Complainant confirms that its trademark ARCELORMITTAL® is distinctive and it has a strong reputation in the metal and steel production industry. In this vein, the Complainant referred to different UDRP cases by which the panels confirmed the well know status of the ARCELORMITTAL® trademarks throughout the world (e.g. CAC Case No. 101667 and CAC Case No. 101908). Absent of Respondent's reply, the Panel finds that Respondent, prior to the registration of the Disputed Domain Name was aware of Complainant's trademark, in particular since the Disputed Domain Name was registered on December 12, 2024 and Complainant's trademarks were registered long before the registration of the Disputed Domain Name.

Furthermore, the Disputed Domain Name is a typosquatted version of the trademark ARCELORMITTAL®. Some panels have found that domain names comprising typos or misspellings to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith, see paragraph 3.1.4 of WIPO Overview 3.0).

As indicated by Complainant, the website associated with the Disputed Domain Name resolves to an inactive website. Past

panelists have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding and for this purpose, the following factors should be taken into account: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put.

See paragraph 3.3. of WIPO Overview 3.0.

As explained before, the Complainant's mark is indeed distinctive and it has a strong reputation in the metal and steel production industry and by no replying to this Complaint, the Respondent did not show any evidence regarding the good faith to use the Disputed Domain Name. Thus, the finding of bad faith under the doctrine of passive holding can be applicable to the current case.

Last but not least, the Complainant provided with evidence showing that MX records are configured. Past panels have found that the activation of mail exchanger record (MX record) suggests that the Respondent is using or is preparing to use the Disputed Domain Name to send and receive e-mail communications with the purpose to mislead the recipients as to their source. This is an additional circumstance of Respondent's bad faith (See, e.g., Decathlon v. Privacy service provided by Withheld for Privacy, WIPO Case No. D2021-4369).

In light of the above-mentioned findings, the Panel finds that the evidence submitted by the Complainant supports the argument that by using the Disputed Domain Name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's website or other on-line 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 or of a product.

Therefore, the Panel concludes that Respondent registered and is using the Disputed Domain Name in bad faith and thus has satisfied the requirement under paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **arcelormittall.cam**: Transferred

PANELLISTS

Name	**Victor Garcia Padilla**

DATE OF PANEL DECISION 2025-01-16

Publish the Decision