Decision for dispute CAC-UDRP-107346

Case number	CAC-UDRP-107346
Time of filing	2025-02-20 10:28:30
Domain names	arcelormittalbrasilsa.shop

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	ARCELORMITTAL

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	Chen Yuren

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 holder of the international word mark ARCELORMITTAL registered under No. 947686 since August 3, 2007, covering goods and services in classes 6, 7, 9, 12, 19, 21, 39, 40, 41 and 42.

FACTUAL BACKGROUND

The Complainant, ARCELORMITTAL, is a company specialized in the production of steel. The Complainant is the largest steel producing company in the world with 58.1 million tons crude steel made in 2023.

The Complainant is notably active in Brazil via its subsidiary ARCELORMITTAL BRASIL S.A.

The Complainant is the owner of the registered international word mark ARCELORMITTAL in several classes since 2007, and also owns domain names such as <arcelormittal.com>.

The disputed domain name <arcelormittalbrasilsa.shop> was registered on February 17, 2025. According to the Complainant's evidence, the disputed domain name resolved to a website impersonating the Complainant's subsidiary ARCELORMITTAL BRASIL S.A. The disputed domain name currently appears to resolve to a registrar parking page.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant considers the disputed domain name to be confusingly similar to a trademark in which it has rights. The Complainant claims that the Respondent has no rights or legitimate interests in respect of the disputed domain name. According to the Complainant, the Respondent is not commonly known by the disputed domain name, is not affiliated with the Complainant and has not been authorized to register or use the disputed domain name or the Complainant's mark. The Complainant claims that the fact that the disputed domain name resolves to content impersonating one of its subsidiaries further indicates a lack of rights or legitimate interests by a Respondent. Finally, the Complainant considers that the disputed domain name was registered and is being used in bad faith. The Complainant contends that 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. The Complainant further claims that the Respondent registered and used the disputed domain name to attract Internet users and offer possibly fraudulent services while impersonating the Complainant. The Complainant also provides evidence suggesting that the disputed domain name may be actively used for email purposes, and claims 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 email address.

RESPONDENT:

The Respondent did not reply to the Complainant's contentions. 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

Paragraph 15 of the Rules provides that the Panel is to decide the complaint on the basis of the statements and documents submitted in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

The onus is on the Complainant to make out its case and it is apparent, both from the terms of the Policy and the decisions of past UDRP panels, that the Complainant must show that all three elements set out in Paragraph 4 (a) of the Policy have been established before any order can be made to transfer a domain name. As the proceedings are administrative, the standard of proof is the balance of probabilities.

Thus, for the Complainant to succeed it must prove, within the meaning of Paragraph 4(a) of the Policy and on the balance of probabilities that:

1. The domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
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.

The Panel has therefore dealt with each of these requirements in turn.

1. Identity of confusing similarity

The Complainant must first establish that there is a trademark or service mark in which it has rights. Since the Complainant is the holder of the registered ARCELORMITTAL trademark, which is used in connection with the Complainant's steel production business, it is established that there is a trademark in which the Complainant has rights.

The disputed domain name <arcelormittalbrasilsa.shop> incorporates the Complainant's ARCELORMITTAL trademark in its entirety, merely adding the terms "brasil" and "sa". In the Panel's view, this addition does not prevent the Complainant's trademark from being recognizable within the disputed domain name (see section 1.8 WIPO Overview 3.0; IM PRODUCTION v. Xue Han, CAC Case No. 104877 <isabel-marantus.com>).

Additionally, it is well established that the Top Level Domains ("TLDs") such as ".shop" may be disregarded when considering whether the disputed domain name is identical or confusingly similar to the trademark in which the Complainant has rights (see section 1.11 WIPO Overview 3.0).

Therefore, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark. Accordingly, the Complainant has made out the first of the three elements that it must establish.

2. No rights or legitimate interests

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

It is established case law that it is sufficient for the Complainant to make a prima facie showing that the Respondent has no right or legitimate interest in the disputed domain name in order to shift the burden of proof to the Respondent (see section 2.1 WIPO Overview 3.0 and Champion Innovations, Ltd. V. Udo Dussling (45FHH), WIPO case No. D2005-1094; Croatia Airlines d.d. v. Modern Empire Internet Ltd., WIPO case No. D2003-0455; Belupo d.d. v. WACHEM d.o.o., WIPO case No. 2004-0110).

The Panel notes that the Respondent has not been commonly known by the disputed domain name and that the Respondent has not acquired trademark or service mark rights. According to the information provided by the Registrar, the Respondent is known as "Chen Yuren". The Respondent's use and registration of the disputed domain name was not authorized by the Complainant. There are no indications that a connection between the Complainant and the Respondent existed.

Fundamentally, a respondent's use of a domain name will not be considered "fair" if it falsely suggests affiliation with the trademark owner. The correlation between a domain name and the complainant's mark is often central to this inquiry. Generally speaking, UDRP panels have found that where a domain name consists of a trademark plus an additional term, such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner (see section 2.5.1 WIPO Overview 3.0). The disputed domain name incorporates the Complainant'sARCELORMITTAL trademark in its entirety, merely adding the terms "brasil" and "sa". In the Panel's view, this combination even increases the risk of confusion with the Complainant as it corresponds to the company name of a subsidiary of the Complainant. Therefore, the Panel finds that the disputed domain name carries a high risk of implied affiliation with the Complainant and cannot constitute fair use.

Moreover, the Panel observes that the disputed domain name appeared to resolve to a website with content impersonating the Complainant's subsidiary ARCELORMITTAL BRASIL S.A. The Panel finds that this does not amount to a bona fide offering of goods or services, or a legitimate noncommercial or fair use of the disputed domain name. UDRP panels have categorically held that the use of a domain name for illegal activity (e.g. impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent (see section 1.13 of the WIPO Overview 3.0).

The Panel observes that the disputed domain name currently resolves to a registrar parking page. In the Panel's view, this does not amount to any legitimate noncommercial or fair use or use in connection with a bona fide offering of goods and services either.

The Respondent had the opportunity to demonstrate its rights or legitimate interests but did not do so. In the absence of a Response from the Respondent, the prima facie case established by the Complainant has not been rebutted.

Therefore, the Panel finds that the Complainant has established that the Respondent has no rights or legitimate interests in the disputed domain name. In light of the above, the Complainant succeeds on the second element of the Policy.

3. Bad faith

The Complainant must prove on the balance of probabilities that the disputed domain name was registered in bad faith and that it is being used in bad faith (see section 4.2 WIPO Overview 3.0 and e.g. Telstra Corporation Limited v. Nuclear Marshmallow, WIPO Case No. D2000-0003; Control Techniques Limited v. Lektronix Ltd, WIPO Case No. D2006-1052).

According to the Panel, the awareness of a respondent of the complainant and/or the complainant's trademark rights at the time of registration can evidence bad faith (see Red Bull GmbH v. Credit du Léman SA, Jean-Denis Deletraz, WIPO Case No. D2011-2209; Nintendo of America Inc v. Marco Beijen, Beijen Consulting, Pokemon Fan Clubs Org., and Pokemon Fans Unite, WIPO Case No. D2001-1070).

In the instant case, the Panel finds that the Respondent must have had knowledge of the Complainant's rights in the ARCELORMITTAL trademark at the moment it registered the disputed domain name, since the disputed domain name incorporates the Complainant's distinctive and well-known ARCELORMITTAL trademark in its entirety and adds terms which refer to one of the Complainant's subsidiaries. Moreover, the Complainant's mark had been registered more than 15 years before the disputed domain name. Finally, the reputation of the Complainant's ARCELORMITTAL trademark has been confirmed by several UDRP panels (see e.g. ARCELORMITTAL v. China Capital, CAC Case No. 101908).

As established above, the disputed domain name resolved to a website appearing to impersonate one of the Complainant's subsidiaries. In the Panel's view, the circumstances of this case indicate that the Respondent has intentionally attempted to attract Internet users to its website for commercial gain by creating a likelihood of confusion with the Complainant and the Complainant's trademarks (see section 3.2.4, WIPO Overview 3.0).

Given the totality of the circumstances discussed above, the current state of the disputed domain name redirecting to a registrar parking page does not prevent a finding of bad faith under the doctrine of passive holding (see section 3.3, WIPO Overview 3.0). Moreover, the Panel finds that the evidence of active MX records connected to the disputed domain name is a further indication of bad faith.

Finally, the Respondent did not formally take part in the administrative proceedings. According to the Panel, this serves as an additional indication of the Respondent's bad faith.

Therefore, the Panel finds that, on the balance of probabilities, it is sufficiently shown that the disputed domain name was registered and is being 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. **arcelormittalbrasilsa.shop**: Transferred

PANELLISTS

Name	**Flip Petillion**

DATE OF PANEL DECISION 2025-03-31

Publish the Decision