

Decision for dispute CAC-UDRP-104311

Case number **CAC-UDRP-104311**

Time of filing **2022-01-31 08:09:56**

Domain names **mmitalmexico.com**

Case administrator

Organization **Denisa Bilík (CAC) (Case admin)**

Complainant

Organization **ARCELORMITTAL (SA)**

Complainant representative

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

Respondent

Organization **arcelormital**

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 registered owner of the following trademarks:

- International Trademark Registration No. 1198046 for MITTAL (word mark), registered on December 5, 2013, in classes 6 and 40, and
- European Trademark Registration No. 004233301 for MITTAL STEEL (word mark), registered on March 27, 2006, in classes 6 and 40.

FACTUAL BACKGROUND

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

The Complainant is a well-established steel producing company in the world and is the market leader in steel for use in automotive, construction, household appliances and packaging with operations in more than 60 countries.

The Complainant is the registered owner of several trademarks containing the term "MITTAL", in different countries.

The Complainant owns an important domain names portfolio containing the wording MITTAL, such as the domain name <mittalsteel.com> registered since January 3, 2003 or <mittal-steel.com> registered since May 18, 2009.

The disputed domain name <mmitalmexico.com> was registered on January 1, 2022, and is not currently used in connection with any goods or services as it results in an inactive webpage.

No information is known about the Respondent who registered the disputed domain name <mmitalmexico.com> under a privacy statement.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

PARTIES' CONTENTIONS:

COMPLAINANT:

Identical or confusingly similar

The Complainant argues that the disputed domain name <mmitalmexico.com> and the Complainant's registered trademarks are confusingly similar.

Particularly, the Complainant contends that the disputed domain name <mmitalmexico.com> contains an obvious misspelling of the Complainant's trademarks MITTAL by adding the initial letter "M" and deleting the letter "T", and considers the present situation is a clear case of "typosquatting".

The Complainant also points out that the applicable Top-Level suffix ".com" does not per se prevent the likelihood of confusion.

No rights or legitimate interests

The Complainant does not explicitly argue that that the Respondent is not commonly known by the disputed domain name or a name corresponding to the disputed domain name, or that the Respondent is making any businesses with the Complainant. However, the Complainant states that 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.

Registered and used in bad faith

As far as bad faith registration is concerned, the Complainant states due to its worldwide presence and considering that the Complainant's marks MITTAL and MITTAL STEEL have been widely used and are well-known, the Respondent certainly had full knowledge of the Complainant rights over the name MITTAL at the time of the disputed domain name's registration.

Moreover, the Complainant contends that, the disputed domain name is used as an part of an email address on another website, where the Respondent intends to pass of as the Complainant's entity in Mexico.

Thus, according to the Complainant, the Respondent registered the disputed domain name <mmitalmexico.com> and is using it in bad faith.

RESPONDENT:

The Respondent did not respond to the Complaint.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to trademarks 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 in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The language of the registration agreement is Spanish, but the Complainant requested the proceeding to be conducted in English language.

The Panel's discretion must be exercised judicially in the spirit of fairness and justice to both parties taking into consideration matters such as command of the language, time and costs. It is important that the language finally decided by the Panel for the proceeding is not prejudicial to either one of the parties in his or her ability to articulate the arguments for the case (CAC case No. 102277).

The Respondent did not respond neither to the complaint neither to the request for the change of the language of the proceeding.

The Panel finds the Complainant's request to conduct the proceeding in English well grounded and equitable to both parties. The panel decision is therefore issued in English language.

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 states that the Panel decides a Complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law deemed applicable.

In the case of default by a Party, Rule 14 states that if a Party, in the absence of exceptional circumstances, does not comply with a provision of, or requirement under the Rules, the Panel draws such inferences therefrom as appropriate.

In the present case, the Respondent has not submitted any Response and consequently has not contested any of the contentions made by the Complainant.

The Panel proceeds therefore to decide only on the basis of the Complainant's factual statements and the documentary evidences provided in support of them.

1.

The Panel finds that the disputed domain name <mmitalmexico.com> is visually, conceptually and phonetically very similar with the Complainant's registered trademarks containing the main distinctive element "MITTAL", given that the signs contain the majority of the same letters, have the same word structure and look alike at the first sight. Indeed, the disputed domain name appears to be a misspelled version of the registered trademarks rather than a different denomination independently selected by the Responded.

Moreover, the variation in some letters and the gTLD ".com", which would usually be disregarded as it is a technical requirement of registration, do not later the overall very similar impression the disputed domain name and the registered trademarks produce.

Accordingly, the Panel considers that the disputed domain name and the Complainant's previously registered trademarks are

confusingly similar and infers that paragraph 4(a)(i) of the Policy is satisfied.

2. According to the Complainant's contentions and evidences submitted within this proceeding, which were not disputed, the Respondent does not appear to be in any way related to the Complainant's business, does not act as the agent of the Complainant, and rather appears to be a supplier of the Complainant's products not authorized to use a trademark "MITTAL", or any combination of such trademark.

Furthermore, the disputed domain name <mmitalmexico.com> resolve currently in blank web page. Therefore, it is reasonable to infer that the Respondent does not have any legitimate interest in the disputed domain name and rather appears to use the disputed domain name for his own commercial gain by trying to pass off as the Complainant's entity in Mexico.

Consequently, and in the absence of a Response, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, so that the requirements of paragraph 4(a)(ii) of the Policy are met.

3. Given the widespread presence of the Complainant's trademarks and the way how the Respondent is using the disputed domain name which is confusingly similar to the Complainant's trademarks, the Panel finds that the Complainant intended to pass off the Complainant's official supplier or business partner in Mexico who was authorized to use the Complainant's trademarks.

Indeed, by choosing and registering the disputed domain name which represents a misspelled version of the Complainant's well-known trademark, the Respondent is likely to be engaged in typosquatting, a practice by which a registrant of a domain name deliberately introduces slight deviations into famous marks for its commercial gain.

In other words, in the absence of sufficient evidence to the contrary and rebuttal from the Respondent, the Panel infers that by choosing to register the domain name which is similar to Complainant's trademarks and by creating the impression of being the Complainant's entity in Mexico which is not true, the Respondent's activity is indicative of registration and use of the disputed domain name in bad faith.

Accordingly, the Panel finds that the Complainant has satisfied 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. **MMITALMEXICO.COM**: Transferred

PANELLISTS

Name	JUDr. Hana Císlarová, LL.M.
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DATE OF PANEL DECISION	2022-03-09
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Publish the Decision