

Decision for dispute CAC-UDRP-104341

Case number	CAC-UDRP-104341
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Time of filing	2022-02-10 09:27:25
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Domain names	arcellomittal.com
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Case administrator

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

Organization	ARCELORMITTAL (SA)
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Complainant representative

Organization	NAMESHIELD S.A.S.
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Respondent

Name	Jose Carballo
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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.

IDENTIFICATION OF RIGHTS

The Complainant registered Arcelormittal trademarks, eg. IR No. n° 947686 ARCELORMITTAL, registered on August 3, 2007 which is still valid, before the Respondent registered the disputed domain name.

The Complainant also provided evidence that it owns a domain name containing the name <arcelormittal.com> registered since January 27, 2006, registered well before the Respondent registered the disputed domain name.

FACTUAL BACKGROUND

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

The Complainant principally makes the following assertions:

The Complainant is an international operating steel company based in Luxemburg, Luxembourg. The Complainant is active in 60 countries and has about 168.000 employees (in 2020).

The Respondent is an U.S. citizen from Florida, using a hidden domain holder name, who is represented by his Registry which is based in the United States. On February 3, 2022 the Respondent registered the disputed domain name. He directed the disputed domain name to a parking page offering commercial purposes.

The Complainant, represented by the company Nameshield, filed the Complaint against the Respondent claiming that the Respondent registered the confusingly similar disputed domain name without rights or legitimate interest and in bad faith, eg. typosquatting as eg. WIPO Case No. D2020-3457. Therefore, the registration should be declared abusive and the disputed domain name transferred to the Complainant.

The Respondent didn't react to the Complainant's contentions.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

Complainants' Contentions:

The Complainant principally makes the following assertions.

This is a clear case of "typosquatting", i.e. the disputed domain name contains an obvious misspelling of the Complainant's trademark. Previous panels have found that the slight spelling variations does not prevent a disputed domain name from being confusing similar to the Complainant's trademark. See previous WIPO Case No. D2020-3457, ArcelorMittal (Société Anonyme) v. Name Redacted <arcelormltal.com> ("As the disputed domain name differs from the Complainant's trademark by just two letters, it must be considered a prototypical example of typosquatting – which intentionally takes advantage of Internet users that inadvertently type an incorrect address (often a misspelling of the complainant's trademark) when seeking to access the trademark owner's website. WIPO Overview 3.0 at section 1.9 states that "[a] domain name which consists of a common, obvious, or misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element.").

Furthermore, the Complainant contends that the addition of the gTLD ".COM" 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 names associated.

Though Complainant reminded to the WIPO Overview 3.0 §1.11.1, "the applicable Top Level Domain ("TDL") in a domain name (e.g., ".com", ".club", ".nyc") is viewed as a standard registration requirement and as such is disregarded under the first element confusion similarity test".

He concluded that the disputed domain name <arcelormittal.com> is confusingly similar to Complainant's trademark ARCELORMITTAL®.

The Complainant offered more Jurisdiction, for instance 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).").

Please see Forum Case No. 1597465, The Hackett Group, Inc. v. Brian Hems / The Hackett Group ("The Panel agrees that typosquatting is occurring, and finds this is additional evidence that Respondent has no rights or legitimate interests under Policy 4(a)(ii).").

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.").

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.").

Forum Case No. FA 877979, Microsoft Corporation v. Domain Registration Philippines ("In addition, Respondent's misspelling of Complainant's MICROSOFT mark in the <microsoft.com> domain name indicates that Respondent is typosquatting, which is a further indication of bad faith registration and use pursuant to Policy 4(a)(iii).").

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

It is necessary for the Complainant, if it is to succeed in this administrative proceeding, to prove each of the three elements referred to in paragraph 4(a) of the Policy, namely that:

- (i) the disputed domain name is identical or confusingly similar to a trade mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interest in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Panel finds that the disputed domain name < arcellomittal.com> is confusing similar to the word trademarks, domains and company name of the Complainant.

The obvious misspelling of the Complainant's trademark ARCELORMITTAL®, i.e. the addition of the letter "L" after the first "L" and the deletion of the letter "R" in the middle, is characteristic of a Typosquatting practice intended to create confusing similarity between the Complainant's trademark and the disputed domain name. Previous panels have found that the slight spelling variations does not prevent a domain name from being confusing similar to the Complainant's trademark. See CAC Case 102625 <ARCEIORMLTAL.COM> and WIPO Case No. D2020-3457 <arcelormltal.com> ("As the disputed domain name differs from the Complainant's trademark by just two letters, it must be considered a prototypical example of typosquatting – which intentionally takes advantage of Internet users that inadvertently type an incorrect address (often a misspelling of the

complainant's trademark) when seeking to access the trademark owner's website. WIPO Overview 3.0 at section 1.9 states that "[a] domain name which consists of a common, obvious, or misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element.").

Furthermore, the Complainant contends that the addition of the gTLD ".COM" 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 names associated.

Indeed, as reminded in the WIPO Overview 3.0 §1.11.1, "the applicable Top Level Domain ("TDL") in a domain name (e.g., ".com", ".club", ".nyc") is viewed as a standard registration requirement and as such is disregarded under the first element confusion similarity test".

Consequently, the disputed domain name <arcelomittal.com> is confusingly similar to Complainant's trademark ARCELORMITTAL®.

Further the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant argues that the Respondent is not related to the Complainant and rightfully contends that the Respondent has not developed a legitimate use in respect of the disputed domain name.

Moreover, the Complainant contends and provides evidence that the disputed domain name resolves to a website that planned phishing via e-mail or offering Complainant's products in competition with the Complainant. Competing use is not considered a bona fide offering of goods or services, nor a legitimate non-commercial or fair use.

In lack of any Response from the Respondent, or any other information indicating the contrary, the Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Complainant also referred to the distinctiveness and reputation of its Arcelormittal trademarks.

This makes it highly unlikely that the Respondent had no knowledge of the Complainant's prior trademark rights at the time of registration of the disputed domain name.

The Complainant rightfully contended that the Respondent has used the disputed domain name intentionally to attract visitors for commercial gain by creating confusion with the Complainant's trademarks, and that the Respondent has used the disputed domain name with that intention, namely in bad faith. Please see 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."). Reference is made also to: CAC case N° 101036, Boehringer Ingelheim Pharma GmbH & Co. KG vs. SKYRXSHOP - dulcolax.xyz and WIPO Case no. D2014-0306 Boehringer Ingelheim Pharma GmbH & Co. KG v. Klinik Sari Padma, BAKTI HUSADA.

Furthermore, the Respondent is using a hidden identity. But this argument is not to be discussed further because bad faith is evident, whatsoever.

Accordingly, the Panel finds that the disputed domain name was both registered and used in bad faith and that the Complaint succeeds under the third element of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ARCELLOMITTAL.COM**: Transferred

PANELLISTS

Name	Dr. jur. Harald von Herget
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DATE OF PANEL DECISION	2022-03-17
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Publish the Decision	
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