

Decision for dispute CAC-UDRP-104518

Case number	CAC-UDRP-104518
Time of filing	2022-04-22 08:57:06
Domain names	arcelormittal-online.com

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)
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Complainant

Organization	ARCELORMITTAL S.A.
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Complainant representative

Organization	NAMESHIELD S.A.S.
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Respondent

Name	bill chill
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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 bases its Complaint on the trademark ARCELORMITTAL, International trademark registration No. 947686, registered since August 3, 2007, protected for goods and services in classes 6, 7, 9, 12, 19, 21, 39, 40, 41 and 42, designating several countries for protection.

FACTUAL BACKGROUND

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

The Complainant is ARCELORMITTAL S.A., a multinational steel manufacturing corporation, it is the largest steel producing company in the world and the market leader in steel for use in automotive, construction, household appliances and packaging, with operations in more than 60 countries. It holds sizeable captive supplies of raw materials and operates extensive distribution networks.

The Complainant operates under the trademark ARCELORMITTAL, registered in several countries worldwide, and owns several "arcelormittal" domain names, among which <arcelormittal.com>, which was registered since January 27, 2006.

The disputed domain name < arcelormittal-online.com> was registered was registered on April 18, 2022 and resolves to a parking page.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant's contentions are the following:

The disputed domain name is confusingly similar to the Complainant's earlier ARCELORMITTAL trademark since it includes the prior trademark in its entirety. The Complainant further asserts that the addition of the generic term "Online" is not sufficient to escape the finding that the disputed domain name is confusingly similar to the trademark and branded goods ARCELORMITTAL and that it does not change the overall impression of the designation as being connected to the Complainant's trademark ARCELORMITTAL. The Complainant further asserts that it does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and the domain name associated.

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. The Complainant sustains that this does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and its domain names associated.

The Complainant further contends that the Respondent lacks rights or legitimate interests in the disputed domain name for a number of reasons.

First, the Complainant asserts that the Respondent does not appear to be commonly known by the disputed domain name.

The Complainant further asserts that the Respondent has no relationships with the Complainant.

The Complainant does not carry out any activity for, nor has any business with, the Respondent.

The Respondent is not a Complainant's licensee, nor has ever been authorised to make use of the Complainant's trademark or to apply for the registration of the disputed domain name.

Lastly, the Complainant points out that the disputed domain name redirects to a parking page and that the Respondent did not make any use of disputed domain name since its registration and it confirms that Respondent has no demonstrable plan to use the disputed domain name, which is further evidence of the Respondent's lack of rights or legitimate interests.

The Complainant argues that the disputed domain name has been registered, and is been used in bad faith.

The Complainant's maintains that its ARCELORMITTAL trademark is well-known and therefore, that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademark.

Furthermore, the disputed domain name redirects to a parking 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 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.

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

I. Confusing Similarity

The Panel agrees that the disputed domain name includes the ARCELORMITAL prior trademark in its entirety and that the addition of the generic and descriptive term “online” is insufficient to avoid confusing similarity.

Moreover, the extension “.com” is not to be taken into consideration when examining the similarity between the Complainant’s trademarks and the disputed domain name (WIPO Case No. D2005-0016, Accor v. Noldc Inc.). The mere adjunction of a gTLD such as “.com” is irrelevant as it is well established that the generic Top-Level Domain is insufficient to avoid a finding of confusing similarity (WIPO Case No. 2013-0820, L’Oréal v Tina Smith, WIPO Case No. D2008-0820 Titoni AG v Runxin Wang and WIPO Case No. D2009-0877, Alstom v. Itete Peru S.A.).

Therefore, the Panel is satisfied that the first condition under the Policy is met.

II. Lack of Respondent's rights or legitimate interests

The Complainant is required to make out a prima facie case that the respondent lacks rights or legitimate interests. Once such prima facie case is made, the burden of proof shifts to the respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such appropriate allegations or evidence, a complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the UDRP.

Based on the available evidence, the Respondent does not appear to be known by the disputed domain name. The Respondent is not a licensee of, nor has any kind of relationship with, the Complainant. The Complainant has never authorised the Respondent to make use of its trademark, nor of a confusingly similar trademark in the disputed domain name.

Finally, the disputed domain name does not lead to any active webpage. Such use does not amount to a bona fide offering of goods or services, or to a legitimate non-commercial or fair use of the disputed domain name.

The Panel notes that the Respondent had an opportunity to comment on the Complainant’s allegations by filing a Response, which the Respondent failed to do.

Thus, the Panel is satisfied that the Complainant has at least established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. Accordingly, the Panel takes the view that also the second requirement under the Policy is met.

III. Bad Faith

The Complainant's trademark is a well-known one as recognized also by past CAC panels. Therefore, the Panels concludes that at the time of registration of the disputed domain name, the Respondent was well aware of the Complainant's trademark and has intentionally registered a domain name which is confusingly similar to the distinctive prior trademark ARCELORMITTAL.

The disputed domain name is inactive. Under certain circumstances, the passive holding of a domain name cannot prevent a finding of bad faith. Factors that have been considered relevant in applying the passive holding doctrine include: (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 the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (WIPO Jurisprudential Overview 3.0)).

In the present case, the following factors should be considered:

- (i) the Complainant's trademark is a well-known one, being also highly distinctive;
- (ii) the Respondent failed to submit any response and has not provided any evidence of actual or contemplated good faith use of the disputed domain name;
- (iii) the Respondent registered the disputed domain name which is confusingly similar to the distinctive prior trademark ARCELORMITTAL, and
- (iv) any good faith use of the disputed domain name would be implausible, as the trademark ARCELORMITTAL is univocally linked to the Complainant and the Respondent has no business relationship with the Complainant, nor was ever authorised to use a domain name confusingly similar to the Complainant's trademark.

In light of the foregoing, the Panel concludes that the Respondent has registered and has been using the disputed domain name in bad faith. Thus, also the third and last condition under the Policy is satisfied.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. ARCELORMITTAL-ONLINE.COM: Transferred

PANELLISTS

Name	Delia-Mihaela Belciu
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DATE OF PANEL DECISION 2022-05-24

Publish the Decision