

## **ADMINISTRATIVE PANEL DECISION**

Arcelormittal (SA) v. King Ozone

Case No. DCO2023-0006

### **1. The Parties**

The Complainant is Arcelormittal (SA), Luxembourg, represented by Nameshield, France.

The Respondent is King Ozone, United States of America (“United States”)

### **2. The Domain Name and Registrar**

The disputed domain name <arcelormittal.co> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 17, 2023. On January 17, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 17, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Withheld for Privacy Purposes ehf), and contact information in the Complaint. The Center sent an email communication to the Complainant on January 18, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on January 18, 2023.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on January 19, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 8, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 9, 2023.

The Center appointed Meera Chature Sankhari as the sole panelist in this matter on February 10, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

#### 4. Factual Background

The Complainant is the largest steel producing company in the world and is the market leader in steel for use in automotive, construction, household appliances and packaging with 69.1 million tons crude steel made in 2021.

The Complainant owns the trademark registration for the mark ARCELORMITTAL (word) internationally, including in the United States, under Registration No. 947686, registered on August 3, 2007, for classes 6, 7, 9, 12, 19, 21, 39, 40, 41, and 42.

The Complainant also owns a domain names portfolio, which includes domain names such as <www.arcelormittal.com>, registered since January 27, 2006.

The disputed domain name was registered on January 13, 2023, and resolves to a parking page with commercial links. MX servers are configured.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant contends as follows:

- I. The disputed domain name <arcelormlittal.co> is confusingly similar to its trademark ARCELORMITTAL ® and its domain names associated. The Complainant reiterates this issue by relying upon the following facts:
  - i) the obvious misspelling of the Complainant's trademark ARCELORMITTAL ® *i.e.* the substitution of the letter "I" by the letter "L" in the disputed domain name is characteristic of a *typosquatting* practice intended to create confusingly similarity between the Complainant's trademark and the disputed domain name; and
  - ii) the addition of the country-code Top-Level Domain ("ccTLD") ".co" does not change the overall impression of the designation as being connected to the Complainant.
- II. The Respondent has no rights or legitimate interests in respect of the domain name <arcelormlittal.co> and is not related in any way with the Complainant. The Complainant further clarifies that:
  - i) the Respondent is not identified or known by the disputed domain name;
  - ii) the Complainant does not carry out any activity for, nor has any business with the Respondent; and
  - iii) 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.
- III. The Respondent has registered and is using the disputed domain name <arcelormlittal.co> in bad faith. The Complainant relies on the following facts to reiterate its claim:
  - i) that the trademark ARCELORMITTAL is widely known and that given the distinctiveness of the Complainant's trademark and reputation, it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's trademark;
  - ii) that the disputed domain name resolves to a parking page with commercial links. The Complainant contends that the Respondent attempts to attract Internet users for commercial gain to his own website, which is evidence of bad faith; and
  - iii) that MX servers are configured, which suggests that the disputed domain name may be actively used for fraudulent email schemes.

## B. Respondent

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

## 6. Discussion and Findings

To divest a Respondent of a domain name, the Complainant must prove the following element as per Paragraph 4(a) of the Policy:

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

Paragraph 15(a) of the Rules instructs the Panel to decide a complaint "on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

Further, since the Respondent has not submitted its reply in the case at hand, this Panel finds it appropriate case to "decide the dispute based upon the complaint" as per Paragraphs 15(f) read with Paragraphs 14(a) and 14 (b) of the Rules.

Having considered the Complainant's case and the evidence available, the Panel finds as follows.

### A. Identical or Confusingly Similar

As stated above, the Complainant has established its rights in and to the trademark "ARCELORMITTAL" (word). The Complainant's trademark registration constitutes "prima facie evidence of the validity of the trademark", as held in *Backstreet Prods., v. John Zuccarini*, WIPO Case No. [D2001-0654](#)

Considering the disputed domain name is <arcelormlital.co>, the Panel finds that it is confusingly similar to the Complainant's trademark ARCELORMITTAL. The only difference between the Complainant's trademark and the disputed domain name is the replacement of the letter "i" with "l", a practice commonly known as typosquatting. It may be noted that in some fonts, the letters "i" and "l" seem almost identical. According to Section 1.9 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") "A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element".

A plethora of WIPO cases have held that deliberately mis-spelt domain names are confusingly similar. For instance – *Bharti Airtel Limited v. Tushar Sarin / Rockerzz*, WIPO Case No. [DCO2015-0015](#) (<airtei.co> held confusingly similar to the AIRTEL); *Wachovia Corporation v. Peter Carrington*, WIPO Case No. [D2002-0775](#) (<wochovia.com>, <wachovai.com> held virtually identical / confusingly similar to WACHOVIA); *Backstreet Productions, Inc. v. John Zuccarini, CupcakeParty, Cupcake Real Video, Cupcake-Show and Cupcakes-First Patrol*, WIPO Case No. [D2001-0654](#) (<backstreetboys.com> and <backstreetboyz.com> held confusingly similar to BACKSTREET BOYS); and *ArcelorMittal (Soci t  Anonyme) v. Name Redacted*, WIPO Case No. [D2020-3457](#) (<arcelormlital.com> held confusingly similar to ARCELORMITTAL).

Regarding the ccTLD ".co", this is to be disregarded for the purposes of deciding confusing similarity under the first element, as per [WIPO Overview 3.0](#) at Section 1.11.1. It states that the "applicable Top Level Domain ('TLD') in a domain name (e.g., '.com', '.club', '.nyc') [or as in the present case, '.co'], is to be viewed as a standard registration requirement" and, as such not to be taken into consideration.

The Panel finds the requirement of Paragraph 4(a)(i) of the Policy is satisfied.

## **B. Rights or Legitimate Interests**

The Complainant has established *prima facie* that the Respondent has no rights or legitimate interests in the domain name is <arcelormittal.co>, by demonstrating the following:

- i) its ARCELORMITTAL trademark predates the Respondent's registration of its domain name;
- ii) that the Respondent is not related in any way with the Complainant;
- iii) that 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; and
- iv) that the Respondent used the domain name for a parking page with third party pay-per-click ("PPC") links that divert traffic to third party websites not affiliated with the Complainant.

The Complainant further claimed that the Respondent is not using the domain name in connection with a *bona fide* offering of goods or services, or a legitimate noncommercial or fair use. The findings in the cases cited by the Complainant all refer to circumstances where the generation of click-through revenue did not constitute a *bona fide* offering of goods and services or a legitimate noncommercial or fair use.

It is acknowledged that once the Panel finds such *prima facie* case is made, the burden of production shifts to the Respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the disputed domain name.

According to the evidence provided by the Complainant, the disputed domain name has been used for a website displaying pay-per-click (PPC) links, including links under the title "steel tube" and "aluminium tube". The Panel finds such use does not give rise to rights or legitimate interests in the disputed domain name under the Policy. Further, there is nothing on the record to show that the Respondent is known as the disputed domain name. The Respondent has failed to file a Response in this proceeding.

Since the Respondent in the case at hand failed to come forward with any allegations or evidence in this regard, leaving the Complainant's *prima facie* case un rebutted, this Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant is therefore deemed to have satisfied paragraph 4(a)(ii) of the Policy.

## **C. Registered and Used in Bad Faith**

The Complainant has submitted compelling evidence, of the following:

- i) that the trademark ARCELORMITTAL was held to be well-known in *ArcelorMittal SA v. Tina Campbell*, WIPO Case No. [DCO2018-0005](#), where it was held 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";
- ii) that the trademark ARCELORMITTAL and the domain name <arcelormittal.com> were registered long before the registration of the disputed domain name and were widely known;
- iii) that the misspelling of the trademark ARCELORMITTA was intentionally designed to be confusingly similar with the Complainant's trademark, through the common practice of typosquatting; and
- iv) that the disputed domain name resolves to a parking page with commercial PPC links and that the Respondent has attempted to attract Internet users for its own commercial gain.

Section 3.1.4 of the [WIPO Overview 3.0](#) states that the “Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith”.

As previously found in similar cases, this Panel holds that the Respondent ought to have had knowledge of the Complainant’s well-known trademark ARCELORMITTAL prior to the registration of the disputed domain name, as it is a clear typosquatting version of this trademark, which is a clear indication of bad faith.

See *The Gap, Inc. v. Deng Youqian*, WIPO Case No. [D2009-0113](#); *Caesar World, Inc. v. Forum LLC*, WIPO Case No. [D2005-0517](#), and *Wal-Mart Stores, Inc v. Triple E Holdings Limited*, WIPO Case No. [D2005-0711](#) directly on typosquatting.

The Complainant has relied upon *Studiocanal v. Registration Private, Domains By Proxy, LLC*, WIPO Case No. [D2018-0497](#) to reiterate that the Respondent has attempted to attract Internet users for commercial gain to his own website thanks to the Complainants’ trademarks for its own commercial gain, which is an evidence of bad faith. The Panel concurs and finds the registration and use of the disputed domain name was in bad faith. See also *Arcelormittal S.A. v. Cees Willemsen* WIPO Case No. [D2016-1853](#).

## 7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name, <arcelormittal.co> be transferred to the Complainant.

*/Meera Chature Sankhari/*

**Meera Chature Sankhari**

Sole Panelist

Date: February 24, 2023