

ADMINISTRATIVE PANEL DECISION

Arcelormittal (SA) v. henri dubois
Case No. DWS2022-0002

1. The Parties

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

Respondent is henri dubois, France.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 12, 2022. On September 12, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On September 12, 2022, 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 and contact information in the Complaint. The Center sent an email communication to Complainant on September 14, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on September 14, 2022.

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 September 15, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 5, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 11, 2022.

The Center appointed Douglas M. Isenberg as the sole panelist in this matter on October 18, 2022. 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

Complainant states that it 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 tonnes crude steel made in 2021.” Complainant further states, and provides documentation in support thereof, that it is the owner of International Registration No. 947,686 (registered August 3, 2007) for the mark ARCELORMITTAL for use in connection with, *inter alia*, “common metals and their alloys.” (the “ARCELORMITTAL Trademark”). Complainant further states that it is the registrant of the domain name <arcelormittal.com> (created since January 27, 2006)

The Disputed Domain Name was created on September 7, 2022. According to Complainant, and documentation provided by Complainant in support thereof, Respondent is using the Disputed Domain Name in connection with a “parking page with commercial links.” A screenshot provided by Complainant as an annex to the Complaint includes links titled (as translated by the Panel from French to English), “Mining Jobs” and “Steel.”

5. Parties’ Contentions

A. Complainant

Complainant contends, in relevant part, as follows:

- The Disputed Domain Name is identical to the ARCELORMITTAL Trademark because, *inter alia*, “the disputed domain name contains Complainant’s registered and widely known trademark ARCELORMITTAL in its entirety” and “the addition of the ccTLD ‘.WS’ is not sufficient to escape the finding that the disputed domain name is identical to Complainant’s trademarks.”
- Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because, *inter alia*, “the Respondent is not identified in the WHOIS as the disputed domain name”; “Respondent has no rights or legitimate interests in respect of the domain name <arcelormittal.ws> and he is not related in any way with the Complainant”; “Respondent is not affiliated with nor authorized by ARCELORMITTAL (SA)”; “[n]either licence nor authorization has been granted to Respondent to make any use of the Complainant’s trademark ARCELORMITTAL, or apply for registration of the disputed domain name”; and “the disputed domain name resolves to a parking page with commercial links”, which “[p]ast panels have found it is not a bona fide offering of goods or services or legitimate non-commercial or fair use.”
- The Disputed Domain Name was registered and is being used in bad faith because, *inter alia*, “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”; and “the disputed domain name resolves to a parking page with commercial links” which means that “the Respondent has attempt to attract Internet users for commercial gain to his own website thanks to the Complainant’s trademarks for its own commercial gain, which is an evidence of bad faith.”

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

Pursuant to the Policy, Complainant is required to prove the presence of each of the following three elements to obtain the relief it has requested: (i) the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; (ii) Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and (iii) the Disputed Domain Name has been registered and is being used in bad faith. Policy, paragraph 4(a).

A. Identical or Confusingly Similar

Based upon the single trademark registration cited by Complainant, it is apparent that Complainant has rights in and to the ARCELORMITTAL Trademark.

As to whether the Disputed Domain Name is identical or confusingly similar to the ARCELORMITTAL Trademark, the relevant comparison to be made is with the second-level portion of the Disputed Domain Name only (*i.e.*, “arcelormittal”) because “[t]he applicable Top-Level Domain (‘TLD’) 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 confusing similarity test”. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.11.1.

As set forth in section 1.7 of [WIPO Overview 3.0](#): “in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing.” Further, as set forth in section 1.8 of [WIPO Overview 3.0](#): “Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element.”

Further, where, as here, a disputed domain name contains a complainant’s trademark, and *only* such trademark, “it is apparent without the need for elaboration, that the Disputed Domain Name is identical or confusingly similar to” the trademark, *Société Air France v. Indra Armansyah*, WIPO Case No. [D2016-2027](#), because in such case “[t]he disputed domain name is obviously identical to the Complainant’s mark.” *Icebug AB v. Domain Administrator*, WIPO Case No. [D2013-1823](#)

Accordingly, the Panel finds that Complainant has proven the first element of the Policy.

B. Rights or Legitimate Interests

Complainant has argued that Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because, *inter alia*, “the Respondent is not identified in the WHOIS as the disputed domain name”; “Respondent has no rights or legitimate interests in respect of the domain name <arcelormittal.ws> and he is not related in any way with the Complainant”; “Respondent is not affiliated with nor authorized by ARCELORMITTAL (SA)”; “[n]either licence nor authorization has been granted to Respondent to make any use of the Complainant’s trademark ARCELORMITTAL, or apply for registration of the disputed domain name”; and “the disputed domain name resolves to a parking page with commercial links”, which “[p]ast panels have found it is not a bona fide offering of goods or services or legitimate non-commercial or fair use.”

[WIPO Overview 3.0](#), section 2.1, states: “[w]hile the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of ‘proving a negative’, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.”

Given that the Disputed Domain Name is identical to Complainant's trademark, it carries a high risk of implied affiliation. See Section 2.5.1 of the [WIPO Overview 3.0](#).

The Panel finds that Complainant has established its *prima facie* case and without any evidence from Respondent to the contrary, the Panel is satisfied that Complainant has satisfied the second element of the Policy.

C. Registered and Used in Bad Faith

Whether a domain name is registered and used in bad faith for purposes of the Policy may be determined by evaluating four (non-exhaustive) factors set forth in the Policy: (i) circumstances indicating that the registrant has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the registrant's documented out-of-pocket costs directly related to the domain name; or (ii) the registrant has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the registrant has engaged in a pattern of such conduct; or (iii) the registrant has registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) by using the domain name, the registrant has intentionally attempted to attract, for commercial gain, Internet users to the registrant's website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the registrant's website or location or of a product or service on the registrant's website or location. Policy, paragraph 4(b).

Numerous UDRP panels have found the registration and use of a domain name that is confusingly similar to a complainant's trademark to constitute bad faith pursuant to paragraph 4(b)(iv) of the Policy where, as here, the Disputed Domain Name is associated with a monetized parking page that contains links for goods or services competing with the Complainant. See, e.g., *Wal-Mart Stores, Inc. v. Whois Privacy, Inc.*, WIPO Case No. [D2005-0850](#); *Columbia Pictures Industries, Inc. v. North West Enterprise, Inc.*, WIPO Case No. [D2006-0951](#); and *Dr. Martens International Trading GmbH, Dr. Maertens Marketing GmbH v. Private Whois Service*, WIPO Case No. [D2011-1753](#).

Accordingly, the Panel finds that Complainant has proven the third element of the Policy.

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.ws>, be transferred to Complainant.

/Douglas M. Isenberg/

Douglas M. Isenberg

Sole Panelist

Date: November 1, 2022