

ADMINISTRATIVE PANEL DECISION

Arcelormittal v. hassan jaisan
Case No. D2024-4202

1. The Parties

Complainant is Arcelormittal, Luxembourg, represented by Nameshield, France.

Respondent is hassan jaisan, United States of America.

2. The Domain Name and Registrar

The disputed domain name <arceolrmittal.com> is registered with GMO Internet, Inc. d/b/a Discount-Domain.com and Onamae.com (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on October 11, 2024. On October 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 15, 2024, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to Complainant on October 15, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on October 15, 2024.

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 Respondent of the Complaint, and the proceedings commenced on October 17, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 6, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on November 7, 2024.

The Center appointed Fernando Triana Soto as the sole panelist in this matter on November 13, 2024. 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 is one of the largest steel producing companies in the world and is one of the market leaders in steel for use in automotive, construction, household appliances, and packaging with 58.1 million tons crude steel made in 2023.

Complainant owns the international trademark registration No. 947686 for ARCELORMITTAL registered on August 3, 2007, in international classes 6, 7, 9, 12, 19, 21, 39, 40, 41, and 42.

Complainant owns the domain name <arcelormittal.com> registered since January 27, 2006.

The disputed domain name was registered on October 9, 2024, and resolves to an inactive webpage.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, Complainant contends that the disputed domain name is confusingly similar to its trademark ARCELORMITTAL.

The obvious misspelling of Complainant's trademark ARCELORMITTAL (i.e., the inversion of the letters "L" and "O") is characteristic of a typosquatting practice intended to create confusing similarity between Complainant's trademark and the disputed domain name.

Respondent lacks rights or legitimate interests.

Respondent is not commonly known by the disputed domain name.

Respondent has no rights or legitimate interests in respect of the disputed domain name and is not related in any way with Complainant. Complainant does not carry out any activity for, nor has any business with Respondent.

Neither license nor authorization has been granted by Complainant to Respondent to make any use of Complainant's trademark ARCELORMITTAL or apply for registration of the disputed domain name.

Moreover, Complainant also claims that the disputed domain name is a typosquatted version of the trademark ARCELORMITTAL.

The disputed domain name resolves to an inactive website.

Complainant's trademark ARCELORMITTAL is widely known.

Given the distinctiveness of Complainant's trademark and reputation, it is reasonable to infer that Respondent has registered the disputed domain name with full knowledge of Complainant's trademark.

Complainant states the misspelling of the trademark ARCELORMITTAL was intentionally designed to be confusingly similar with Complainant's trademark.

Complainant contends that Respondent has not demonstrated any active use in respect of the disputed domain name, and it is not possible to conceive of any plausible actual or contemplated active use of the disputed domain name by Respondent that would not be illegitimate.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

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

Likewise, paragraph 10(d) of the Rules, provides that "the Panel shall determine the admissibility, relevance, materiality and weight of the evidence".

The Panel wishes to place special emphasis on the evidence filed to prove assertions, which has been thoroughly studied in order to determine its relevance and weight in arriving at a decision. The statements that have been accompanied by evidence have been given more importance than the mere unsubstantiated assertions.

Paragraph 4(a) of the Policy requires that Complainant prove each of the following three elements to obtain an order that the disputed domain name be transferred:

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

This discussion, based on the evidentiary support submitted by Complainant, noting that Respondent did not reply to Complainant's contentions, will be discussed as follows:

First of all, the Panel will determine whether or not the disputed domain name is identical or confusingly similar to the trademark in which Complainant has rights. Secondly, the Panel will verify if Respondent has any rights or legitimate interests in respect of the disputed domain name; and thirdly, the Panel will establish whether or not the disputed domain name has been registered and is being used in bad faith by Respondent.

A. Identical or Confusingly Similar

Complainant owns the international trademark registration No. 947686 for ARCELORMITTAL registered on August 3, 2007, in international classes 6, 7, 9, 12, 19, 21, 39, 40, 41, and 42.

a) Existence of a trademark or service mark in which Complainant has rights

Firstly, it is important to point out that paragraph 4(a) of the Policy requires the Complainant to have rights in a trademark or a service mark.

In this case, Complainant proved its rights in the trademark ARCELORMITTAL as per the Annex 4.

This information appears to be incontestable and conclusive evidence of Complainant's ownership of the cited trademark and the exclusive right to use them in connection with the stated services.

Therefore, the Panel concludes that Complainant has demonstrated rights in the trademark ARCELORMITTAL for purposes of paragraph 4(a)(i) of the Policy.

b) Identity or confusing similarity between the disputed domain name and Complainant's trademark

Complainant alleges that the disputed domain name is confusingly similar to the trademark ARCELORMITTAL.

On the first place, before establishing whether or not the disputed domain name <arceolrmittal.com> is identical or confusingly similar to Complainant's trademark ARCELORMITTAL, the Panel wants to point out that the addition of a generic Top-Level-Domain ("gTLD"), i.e., ".com," as in the case, is generally disregarded when determining if the disputed domain name is identical or confusingly similar to the trademark, see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)) at section 1.11.

Hence, the inclusion of the gTLD, in the disputed domain name is not a factor in analyzing whether a disputed domain name is identical or confusingly similar to the mark in which Complainant asserts rights.

Furthermore, the Panel considers that the reproduction of the trademark ARCELORMITTAL, with an obvious, or intentional misspelling within the disputed domain name <arceolrmittal.com>, is sufficient ground to establish that the disputed domain name is confusingly similar to the trademark, see [WIPO Overview 3.0](#) at section 1.9. Especially since Complainant's trademark is clearly recognizable in the disputed domain name.

In consequence, as per this reasoning, the Panel finds that, the disputed domain name is confusingly similar to Complainant's trademarks and thus, the requirement set forth in paragraph 4(a)(i) of the Policy is duly complied with.

B. Rights or Legitimate Interests

a) Prima facie case

Regarding this second element of paragraph 4(a) of the Policy, UDRP panels have unanimously found that requiring complainant to prove the lack of rights or legitimate interests of respondent in the disputed domain name is often an impossible task: it is not only a negative but also demands access to information that is mostly within the knowledge of respondent¹.

In *Julian Barnes v. Old Barn Studios Ltd.*, WIPO Case No. [D2001-0121](#), the Panel stated that:

"Is the Respondent required to adduce any such evidence, if the onus is on the Complainant to prove the three elements of paragraph 4 of the Policy? While the overall burden of proof is on the Complainant, this element involves the Complainant proving matters, which are peculiarly within the knowledge of the Respondent. It involves the Complainant in the often impossible task of proving a negative. In the Panel's view the correct approach is as follows: the Complainant makes the allegation and puts forward what he can in support (e.g., he has rights to the name, the Respondent has no rights to the name of which he is aware, he has not given any permission to the Respondent). Unless the allegation is manifestly misconceived, the Respondent has a case to answer and that is where paragraph 4(c) of the Policy comes in. If the Respondent then fails to demonstrate his rights or legitimate interests in respect of the Domain Name, the

¹ See *Arla Foods amba v. Bel Arbor / Domain Admin, PrivacyProtect.org*, WIPO Case No. [D2012-0875](#); see also *F. Hoffmann-La Roche AG v. Bargin Register, Inc. - Client Servs.*, WIPO Case No. [D2012-0474](#).

complaint succeeds under this head".

Therefore, Complainant is required to make a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Once this prima facie case is made, the burden of production shifts to Respondent, who must come forward with concrete evidence of its rights or legitimate interests². If Respondent fails to do so, Complainant is deemed to have met the second element of Paragraph 4(a) of the Policy.

Complainant asserts that Respondent has no rights or legitimate interests in the disputed domain name <arceolmittal.com> because of the following: i) Respondent is not commonly known by the disputed domain name, ii) Respondent is not related in any way with Complainant. Complainant does not carry out any activity for, nor has any business with Respondent, iii) neither license nor authorization has been granted by Complainant to Respondent to make any use of Complainant's trademark ARCELORMITTAL or apply for registration of the disputed domain name, iv) the disputed domain name is a typosquatted version of the trademark ARCELORMITTAL, and v) the disputed domain name resolves to an inactive webpage.

The Panel accepts these assertions as a prima facie case made by Complainant that shifts the burden of production to Respondent.

b) Respondent's rights or legitimate interests in the disputed domain name.

Paragraph 4(c) of the Policy includes a non-limited listing of circumstances that serve to prove Respondent's rights or legitimate interests in a disputed domain name:

(i) before any notice of the dispute, Respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a bona fide offering of goods or services; or

(ii) Respondent (as an individual, business, or other organization) has been commonly known by the disputed domain name, even if Respondent has acquired no trademark or service mark rights; or

(iii) Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

Respondent did not file any Response, thus, failed to rebut Complainant's prima facie case, and to show his rights or legitimate interests in the disputed domain name <arceolmittal.com>. Hence, as per paragraph 14 of the Rules, the Panel shall draw such inferences therefrom as it considers appropriate:

- Respondent's use of the disputed domain name is not in connection with a bona fide offering of goods or services considering Respondent has made no use of the disputed domain name.
- There is no evidence within the file proving that Respondent is commonly known by the disputed domain name.
- There is no evidence within the file proving that Complainant licensed or otherwise permitted any use by Respondent of its trademark.
- There is no evidence within the file justifying the choice of the disputed domain name for a bona fide purpose.
- There is no evidence within the file proving Respondent's rights over the signs ARCEOLRMITTAL or

² See *Do The Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#).

ARCELORMITTAL anywhere in the world.

- The disputed domain name is inherently misleading in view of it being a minor typographical error to the trademark ARCELORMITTAL.

The Panel thus concludes that Respondent lacks rights and legitimate interests in the disputed domain name.

Therefore, the second requirement of paragraph 4(b) of the Policy is met.

C. Registered and Used in Bad Faith

According to paragraph 4(b) of the Policy, the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

(i) Circumstances indicating that Respondent has registered or has acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of Respondent's documented out-of-pocket costs directly related to the disputed domain name; or

(ii) Respondent has registered the disputed domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding disputed domain name, provided that Respondent has engaged in a pattern of such conduct; or

(iii) Respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) By using the disputed domain name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product or service on its website or location.

For the Panel it is evident that Respondent knew of the existence and renown of Complainant's trademark when registering the disputed domain name. It is not a coincidence to include a minor misspelling of a well-known trademark within a domain name. Thus, the Panel finds Respondent deliberately misspelled Complainant's well-known trademark in the disputed domain name to mislead and attract Internet users to its website.

Moreover, Respondent is not actively using the disputed domain name. Thus, it is possible to apply the passive holding doctrine, since: (i) the degree of distinctiveness and reputation of Complainant's trademark is high, (ii) Respondent failed to submit a response or provide any evidence of actual or contemplated good-faith use, and (iii) given the above, it is clear the Respondent's intent was to target the Complainant through typosquatting, which is evidence of bad faith.

These facts are enough to conclude that Respondent registered the disputed domain name with knowledge of the Complainant and with the intent to mislead Internet users expecting to find the Complainant at the disputed domain name, which is a one-letter misspelling of the Complainant's trademark and domain name <arcelormittal.com>. Accordingly, the passive holding of the disputed domain name does not prevent a finding of bad faith under the totality of the circumstances present here.

Therefore, the three elements of the Policy 4(a) are satisfied in the present case in respect to the disputed domain name.

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 <arceolmittal.com> be transferred to Complainant.

/Fernando Triana Soto/

Fernando Triana Soto

Sole Panelist

Date: November 27, 2024