

ADMINISTRATIVE PANEL DECISION

Arcelormittal v. Busy Biz
Case No. DCC2024-0003

1. The Parties

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

The Respondent is Busy Biz, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <arcelormittalcln.cc> (the “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 February 21, 2024. On February 22, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On February 22, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 26, 2024, 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 February 26, 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 the Respondent of the Complaint, and the proceedings commenced on February 27, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 18, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 19, 2024.

The Center appointed Ian Lowe as the sole panelist in this matter on March 25, 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

The Complainant is one of the largest steel producing companies in the world and a market leader in steel for use in automotive, construction, household appliances and packaging with 59 million tons of crude steel made in 2022. It was formed in 2006 from the merger of Arcelor and Mittal Steel. The Complainant manufactures steel in 15 countries, including the United States, has customers in 140 countries, and has over 125,000 employees.

The Complainant is the proprietor of numerous registered trademarks in respect of the word mark ARCELORMITTAL (“the Mark”), including International trademark number 947686 registered on August 3, 2007, designating 45 countries (including the United States), United States trademark number 3643643 registered on June 23, 2009, and United Kingdom trademark number 800947686 registered on November 24, 2008.

The Complainant also owns a number of domain names incorporating ARCELORMITTAL including <arcelormittal.com> registered in January, 2006, and used for its website at “www.arcelormittal.com” promoting its products and services.

The Domain Name was registered on February 20, 2024. It does not resolve to an active website. However, the Domain Name’s zone file is configured with Mail Exchanger records (also known as MX records) such that the Domain Name is configured to send and receive email.

5. Parties’ Contentions

A. The Complainant

The Complainant contends that the Domain Name is confusingly similar to its ARCELORMITTAL trademark, that the Respondent has no rights or legitimate interests in respect of the Domain Name, and that the Respondent registered and is using the Domain Name in bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the Domain Name the Complainant must prove that:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) 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.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Complainant has uncontested rights in the trademark ARCELORMITTAL, both by virtue of its trademark registrations and as a result of the goodwill and reputation acquired through use by the Complainant of its mark over a number of years. Ignoring the country code Top-Level Domain ("ccTLD") ".cc", the Domain Name comprises the entirety of the Complainant's mark together with the term "cln". In the Panel's view, this addition does not prevent a finding of confusing similarity between the Domain Name and the Complainant's mark. Accordingly, the Panel finds that the Domain Name is confusingly similar to a mark in which the Complainant has rights.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although 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 difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. Accordingly, 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 (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

The Panel considers that the Complainant has made out a strong prima facie case that the Respondent could have no rights or legitimate interests in respect of the Domain Name. The Respondent has made no use of the Domain Name and has not therefore used it for a bona fide offering of goods or services. There is no question of the Respondent being known by the Domain Name.

Having reviewed the available evidence, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the Domain Name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Name such as those enumerated in the Policy or otherwise.

Accordingly, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Given the nature of the Domain Name, incorporating the entirety of the well-known ARCELORMITTAL mark together with the term "cln", which alludes to the Complainant's joint venture in Italy, ArcelorMittal CLN, the Panel considers it inconceivable that the Respondent did not have the Complainant and its rights in the Mark in mind when it registered the Domain Name.

Despite the fact that there currently appears to be no active use of the Domain Name, section 3.3 of the [WIPO Overview 3.0](#) notes that, from the inception of the UDRP, panels have found that the non-use of a domain name does not prevent a finding of bad faith under the doctrine of passive holding. It depends on the facts of the case, including "(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".

In this case, the Complainant's mark is distinctive; the Respondent has failed to respond to the Complaint; and the Panel cannot conceive of any good faith use to which the Respondent could put the Domain Name.

Based on the available evidence, the Panel finds that the Complainant has established 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 Domain Name <arcelormittalcln.cc> be transferred to the Complainant.

/Ian Lowe/

Ian Lowe

Sole Panelist

Date: April 8, 2024