

ADMINISTRATIVE PANEL DECISION

Arcelormittal v. Kabel K.G., Beekman
Case No. DNL2024-0034

1. The Parties

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

The registrant of the disputed domain name is Kabel K.G., Beekman, Netherlands (Kingdom of the), (“Respondent”).

2. The Domain Name and Registrar

The disputed domain name <arcelormittalcs.nl> (the “Domain Name”) is registered with SIDN through Team.blue nl B.V.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 11, 2024. On July 11, 2024, the Center transmitted by email to SIDN a request for registrar verification in connection with the Domain Name.

On July 15, 2024, SIDN transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named respondent and contact information in the Complaint.

The Center sent an email communication to Complainant on July 16, 2024, providing the information disclosed by SIDN, and inviting Complainant to amend the Complaint in this light. Complainant filed an amended Complaint on July 16, 2024.

The Center verified that the Complaint as amended satisfies the formal requirements of the Dispute Resolution Regulations for .nl Domain Names (the “Regulations”).

In accordance with the Regulations, articles 5.1 and 16.4, the Center formally notified Respondent of the Complaint and the proceedings commenced on July 18, 2024. In accordance with the Regulations, article 7.1, the due date for Response was August 7, 2024. The Center did not receive any response. Accordingly, the Center notified Respondent’s default on August 16, 2024.

The Center appointed Dinant T. L. Oosterbaan as the panelist in this matter on August 27, 2024. The Panel finds that it was properly constituted. The Panelist has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required to ensure compliance with the Regulations, article 9.2.

4. Factual Background

Complainant is a company specialized in steel producing. 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 58.1 million tons crude steel made in 2023. It holds sizeable captive supplies of raw materials and operates extensive distribution networks.

According to the evidence submitted Complainant is the owner of International Trademark Registration ARCELORMITTAL, no. 947686 with registration date August 3, 2007, also applicable in the Netherlands.

Complainant also owns and communicates on the Internet through various domain names, such as the domain name <arcelormittal.com> registered since January 27, 2006.

SIDN informed the Center that that the Domain Name was registered on July 9, 2024.

The trademark registration of Complainant was issued prior to the registration of the Domain Name.

The Domain Name resolves to a parking page.

5. Parties' Contentions

A. Complainant

According to Complainant, the Domain Name is confusingly similar to the ARCELORMITTAL trademark since it wholly incorporates the ARCELORMITTAL mark. The addition of the letters "cs" does not change the overall impression of the designation as being connected to Complainant's trademark ARCELORMITTAL. It does not prevent the likelihood of confusion between the Domain Name and Complainant, its trademark, and its associated domain names. It is well-established that a domain name that wholly incorporates a complainant's registered trademark may be sufficient to establish confusing similarity for purposes of the UDRP.

Furthermore, Complainant contends that the addition of the country code Top Level Domain ("ccTLD") ".nl" does not change the overall impression of the designation as being connected to Complainant's trademark.

Complainant submits that Respondent has no rights or legitimate interests in respect of the Domain Name. Complainant asserts that Respondent has not been commonly known by the 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 to Respondent to make any use of Complainant's trademark ARCELORMITTAL, or apply for registration of the Domain Name by Complainant.

In addition, the Domain Name resolves to the parking page. Therefore, Complainant contends that Respondent did not make any use of the Domain Name since its registration, and it confirms that Respondent has no demonstrable plan to use the Domain Name. It demonstrates a lack of legitimate interests in respect of the Domain Name.

Complainant asserts that the Domain Name has been registered and is being used in bad faith. Complainant contends that the Domain Name is confusingly similar to its distinctive and worldwide known ARCELORMITTAL trademarks. Therefore, given the distinctiveness of Complainant's trademarks and

reputation, it is reasonable to infer that Respondent has registered the Domain Name with full knowledge of Complainant's trademarks.

Furthermore, the Domain Name is not used. Complainant contends that Respondent has not demonstrated any activity in respect of the Domain Name, and it is not possible to conceive of any plausible, actual, or contemplated active use of the Domain name by Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an attempt to attract, for commercial gain, Internet users to his own website, by creating a likelihood of confusion with Complainant's trademark as to the source, sponsorship, affiliation or endorsement of Respondent's website.

Finally, Complainant submits that MX servers are configured which suggests that, although the website is not used, the Domain Name may be actively used for email purposes.

On these bases, Complainant concludes that Respondent has registered and is using the Domain Name in bad faith.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Based on article 2.1 of the Regulations, a claim to transfer a domain name must meet three cumulative conditions:

- a. the domain name is identical or confusingly similar to a trademark or tradename protected under Dutch law in which the complainant has rights, or other name mentioned in article 2.1(a) under II of the Regulations; and
- b. the respondent has no rights to or legitimate interests in the domain name; and
- c. the domain name has been registered or is being used in bad faith.

As Respondent has not filed a Response, the Panel shall rule based on the Complaint. In accordance with article 10.3 of the Regulations, the Complaint shall in that event be granted, unless the Panel considers it to be without basis in law or in fact.

A. Identical or Confusingly Similar

Complainant has established that it is the owner of an International Trademark Registration for ARCELORMITTAL, also applicable in the Netherlands.

It is well accepted that the first element of the Regulations 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. See section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").¹

¹In view of the fact that the Regulations are substantially similar to the Uniform Domain Name Dispute Resolution Policy ("UDRP"), it is well established that both cases decided under the Regulations and cases decided under the UDRP, and therefore [WIPO Overview 3.0](#), may be relevant to the determination of this proceeding (see, e.g., *Aktiebolaget Electrolux v. Beuk Horeca B.V.*, WIPO Case No. [DNL2008-0050](#)).

Complainant has shown rights in respect of a trademark applicable in the Netherlands for purposes of the Regulations. See also [WIPO Overview 3.0](#), section 1.2.1.

The Domain Name incorporates the entirety of the ARCELORMITTAL trademark. Previous panels under the Regulations have found that a domain name is identical or confusingly similar to a complainant's trademark where the domain name incorporates the entirety of such trademark or where a dominant feature of the relevant mark is recognizable in the domain name. See also section 1.7 of [WIPO Overview 3.0](#).

The addition of the letters "cs" after the entirety of the ARCELORMITTAL trademark does not change the overall impression of confusing similarity and does not prevent a finding of confusing similarity under the first element. In particular, the Panel notes that the letters "cs" are common in the Dutch language and are short for "cum suis", which, despite being Latin, are not translated in the Dutch language and may be translated in English as "with his own".

The ccTLD ".nl" may be disregarded for purposes of article 2.1(a) of the Regulations, see *Roompot Recreatie Beheer B.V. v. Edoco LTD*, WIPO Case No. [DNL2008-0008](#).

The Panel finds that the Domain Name is confusingly similar to Complainant's trademark for purposes of standing in accordance with the Regulations.

Complainant has satisfied the requirements of Article 2.1(a) of the Regulations.

B. Rights or Legitimate Interests

As stated in section 2.1 of [WIPO Overview 3.0](#), "while 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".

In the Panel's opinion, Complainant has made out a prima facie case that Respondent lacks rights to or legitimate interests in the Domain Name.

The Domain Name does not resolve to an active website but to a parking page with the text "Reserved! arcelormittalcs.nl has been registered by a customer of TransIP".

The Panel does not consider such use a bona fide offering of goods or services, nor a legitimate noncommercial or fair use of the Domain Name. There is no evidence that Respondent has acquired any relevant trademark or service mark rights. In addition, based on the record presented, there has never been any business relationship between Complainant and Respondent. There is also no indication that Respondent is commonly known by the Domain Name.

No Response to the Complaint was filed and Respondent has not rebutted Complainant's prima facie case.

The Panel finds that Respondent has no rights to or legitimate interests in the Domain Name and that Complainant has satisfied the requirements of Article 2.1(b) of the Regulations.

C. Registered or Used in Bad Faith

Noting the overall circumstances of this case, the Panel finds it highly likely that Respondent knew, and further finds that Respondent in any event should have known, Complainant's trademark at the time of

registration, especially in view of the fact that the Domain Name contains the entirety of the distinctive and well-known ARCELORMITTAL trademark.

The Panel further notes that the Domain Name does not resolve to an active website but to a parking page (see above, paragraph 6(B)). This does not prevent the Panel in finding bad faith under the doctrine of passive holding (see section 3.3 of [WIPO Overview 3.0](#)).

The Panel in particular notes the following. Complainant has alleged that Respondent has configured MX records for the Domain Name, suggesting an intention to use the Domain Name for illegal purposes. Panels have consistently found that the registration of a domain name that is confusingly similar to a well-known trademark for illegal activity is considered evidence of bad faith (see section 3.1.4 of [WIPO Overview 3.0](#)). The record in this case contains no evidence of illegal behavior, but the configuration of MX records presents the potential for an email phishing scheme impersonating Complainant. The use of a domain name that is confusingly similar to a trademark in emails that do not originate with the trademark owner presents a risk to the reputation of a trademark and its owner. Respondent has not denied that it may engage in this practice, which the Panel expects a good faith registrant would do given Complainant's serious contentions, noting the configuration of MX records and composition of the Domain Name.

The Panel finds that the Domain Name has been registered and is being used in bad faith and that Complainant has satisfied the requirements of Article 2.1(c) of the Regulations.

7. Decision

For all the foregoing reasons, in accordance with articles 1 and 14 of the Regulations, the Panel orders that the Domain Name, <arcelormittalcs.nl>, be transferred to Complainant.

/Dinant T. L. Oosterbaan/

Dinant T. L. Oosterbaan

Panelist

Date: September 10, 2024