

## **ADMINISTRATIVE PANEL DECISION**

Arcelormittal (SA) v. Arcelormittal Oficial, arcelormital mexico  
Case No. D2022-0148

### **1. The Parties**

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

The Respondent is Arcelormittal Oficial, arcelormital mexico, Mexico.

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

The disputed domain name <arcelormittalmexicooficial.net> is registered with Google LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 17, 2022. On January 17, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 17, 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 the Complainant on January 19, 2022, 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 20, 2022. On February 4, 2022, the Center informed the parties in English and Spanish, that the language of the registration agreement for the disputed domain name is Spanish. On February 4, 2022, the Complainant submitted its request that English be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission request.

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 28, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 20, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 5, 2022.

The Center appointed Pablo A. Palazzi as the sole panelist in this matter on April 11, 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**

The 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 operations in more than 60 countries. It is one of the largest producers of steel in North and South America and Africa, a significant steel producer in the Commonwealth of Independent States region, and has a growing presence in Asia.

The Complainant is the owner of the international trademark ARCELORMITTAL n° 947686 registered on August 3, 2007.

The Complainant also owns an important domain names portfolio, including the trademark ARCELORMITTAL, such as the domain name <arcelormittal.com> registered since January 27, 2006.

The disputed domain name <arcelormittalmexicoofficial.net> was registered on January 14, 2022 and redirects to an inactive website.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant contends that its trademark ARCELORMITTAL is highly distinctive and internationally well known. The Complainant contends that the disputed domain name is confusingly similar to the Complainant's trademark ARCELORMITTAL. In fact, the disputed domain name only varies from the Complainant's trademark by the addition of "mexico" and "oficial".

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. According to the Complainant, the Respondent is not sponsored by or affiliated with the Complainant in any way. In addition, the Complainant has not given to the Respondent the permission to use its trademarks in any manner, including in domain names. It has not licensed, authorized or permitted the Respondent to register domain names incorporating its trademark. The Respondent is not commonly known by the disputed domain name.

With respect to bad faith registration and use, the Complainant contends that its trademark ARCELORMITTAL is widely known as previous UDRP panels have confirmed the notoriety of the trademark ARCELORMITTAL in the several cases.

The Complainant request the transfer of the disputed domain name.

##### **B. Respondent**

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

## **6. Discussion and Findings**

As per paragraph 4(a) of the Policy, the Complainant must prove that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the 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.

### **A. Language of the Proceedings**

The language of the registration agreement for the disputed domain name is Spanish. Pursuant to the Rules, paragraph 11, in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceedings shall be the language of the registration agreement.

Paragraph 11(a) allows the Panel to determine the language of the proceedings having regard to all the circumstances. In particular, it is established practice to take paragraphs 10(b) and (c) of the Rules into consideration for the purpose of determining the language of the proceedings.

The Complainant has requested that English be the language of the proceedings, for the following reasons: (i) the choice of language is related to the combined fact that the English language is the language most widely used in international relations and is one of the working languages of the Center; (ii) in order to proceed in Spanish, the Complainant would have had to retain specialized translation services at a cost very likely to be higher than the overall cost of these proceedings. The use of Spanish in this case would therefore impose a burden on the Complainant which must be deemed significant in view of the low cost of these proceedings.

The Panel considers the fact that the Respondent has not filed a Response. The Panel is also mindful of the need to ensure the proceedings are conducted in a timely and cost effective manner. Having considered all the matters above, and the Complainant arguments, the Panel determines under paragraph 11(a) of the Rules that the language of the proceedings shall be English.

### **B. Identical or Confusingly Similar**

There is seemingly no dispute that the Complainant has rights in its ARCELORMITTAL marks for the purpose of paragraph 4(a)(i) of the Policy. As such, the remaining issue under this element is whether the disputed domain name is identical or confusingly similar to that mark.

The disputed domain name <arcelormittalmexicooficial.net> incorporates the registered trademark of the Complainant ARCELORMITTAL in full and the Panel finds that for the purpose of these proceedings that it shall be considered to be confusingly similar to a trademark in which the Complainants have rights.

In assessing identity and confusing similarity for the purposes of paragraph 4(a)(i) of the Policy, the generic Top-Level Domains (“gTLD”) “.net” suffix can be ignored. In addition the “mexico” and “oficial” words in the disputed domain name do not prevent the confusing similarity between the disputed domain name and the Complainant’s trademark.

The conditions in paragraph 4(a)(i) of the Policy are therefore fulfilled.

### C. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances any of which is sufficient to demonstrate that the Respondent has rights or legitimate interests in the disputed domain name:

- (i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or
- (iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

According to the Complaint, the Complainant has not licensed or otherwise permitted the Respondent to use its trademarks, or to register any domain name incorporating the Complainant's marks.

The Complainant further alleges that the Respondent has no relation with the Complainant nor has it any rights or legitimate interests in the disputed domain name. The Panel finds that the Complainant has established a *prima facie* case. The Respondent has not rebutted the Complainant's *prima facie* case, and has provided no evidence demonstrating rights and legitimate interests in the disputed domain name in accordance with paragraph 4(c) of the Policy. In addition, the Complainant's marks to the best of the Panel's knowledge have no specific meaning except as name and mark for the Complainant, it is unlikely that any such rights or legitimate interests exist. In addition, the Complainant has registered its mark before the registration of the disputed domain name.

Consequently, the Panel finds that the conditions in paragraph 4(a)(ii) of the Policy are also fulfilled.

### D. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy requires the Complainant to prove both registration and use of the disputed domain name in bad faith. Paragraph 4(b)(i) of the Policy provides an example of circumstances which shall be evidence of registration and use in bad faith.

The Panel finds that the Complainant's marks have been widely used and are well-known. In this Panel's opinion it is not probable that the Respondent registered the disputed domain name, which incorporates the distinctive trademark of the Complainant, without knowledge of the Complainant (see *e.g. Mittal Steel Technologies Limited, Mittal Steel Company NV and Arcelor SA v. Jean Frederic Serete*, WIPO Case No. [D2006-1353](#)). The Panel finds it likely that the Respondent registered the disputed domain name to take unfair advantage of its similarity with the Complainant's marks. In this regard, many Internet users would suppose that the disputed domain name had been registered by the Complainant or an affiliate of the Complainant to promote its business in Mexico (*Société des Produits Nestlé SA v. Peter Carrington, c/o Party Night Inc.*, WIPO Case No. [D2002-0954](#)).

The Panel therefore finds that the disputed domain name was registered in bad faith.

With respect to bad faith use, the Panel notes that the disputed domain name is inactive. However, the fact that a domain name is inactive does not prevent a finding of bad faith registration and use. See, *e.g. Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#). Indeed, in the case of a famous trademark such as ARCELORMITTAL, the incorporation of such a trademark "into a domain name by a registrant having no plausible explanation for doing so may be, in and of itself, an indication of bad faith".

The Panel also takes into account that Responder defaulted and the trademark contained in the disputed domain name is distinctive and famous.

Accordingly, the Panel finds that the disputed domain name was registered and is being used in bad faith.

## **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 <arcelormittalmexicoofficial.net> be transferred to the Complainant.

*/Pablo Palazzi/*

**Pablo Palazzi**

Sole Panelist

Date: April 24, 2022