

ADMINISTRATIVE PANEL DECISION

Arcelormittal v. TE LOGISTIC

Case No. D2024-3562

1. The Parties

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

The Respondent is TE LOGISTIC, United States of America.

2. The Domain Name and Registrar

The Disputed Domain Name <arcelormittal.com> is registered with Gandi SAS (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 3, 2024. On September 4, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On September 4, 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 the Complainant on September 6, 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 September 9, 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 September 10, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 30, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 1, 2024.

The Center appointed Jane Lambert as the sole panelist in this matter on October 4, 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 a public company incorporated in Luxembourg with limited liability. It is one of the biggest steel manufacturers in the world. It employs some 154,000 in steel-making and related activities around the world. It was formed by the acquisition of Arcelor by Mittal Steel. According to Wikipedia the company's turnover was USD 68.275 billion in 2023.

It has registered the word "ArcelorMittal" as an international trademark under the provisions of the Madrid Convention and Protocol for a wide range of goods and services with effect from August 3, 2007, under registration number 947686.

Because of its massive turnover and international presence, the general public and the trade are likely to associate ArcelorMittal with the Complainant and none other. Anybody attempting to trade under a name or style risks action for passing or equivalent cause of action.

Annex 6 of the site indicates that the Disputed Domain Name has been used as a URL for a phishing site. The name and address of the person registering the name were hidden by a privacy shield. The name that was revealed to the Center appears to be an alias and the postal address cannot be located on Google Maps.

5. Parties' Contentions

A. Complainant

The Complainant claims the transfer of the Disputed Domain Name. It contends that it has satisfied each of the elements required under the Policy for a transfer of the Disputed Domain Name.

It points out that the Disputed Domain Name is confusingly similar to its international trademark in that it differs only in the addition of an extra "R" after the second character and the substitution of an "O" for the "I" after "M". The Complainant refers to the panel's observations in *ArcelorMittal (Société Anonyme) v. Name Redacted*, WIPO Case No. [D2020-3457](#) <[arcelormltal.com](#)> and WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), at section 1.9. It also asserts that the addition of the gTLD ".COM" does not change the overall impression of the designation as being connected to the Complainant's trademark.

Referring to *Croatia Airlines d. d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#) the Complainant submits that it is required only to make out a prima facie case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name to shift the evidentiary burden to the Respondent who must then show that he or she has such rights or legitimate interests. The name of the person who registered the Disputed Domain Name looks and sounds very different from such name. The Complainant has never authorized or licensed the Respondent to use the Disputed Domain Name and there are no circumstances that would entitle the Respondent to do so. The name is an obvious misspelling intended to confuse, deceive or mislead and it has been used to trick third parties into parting with their money.

The Complainant alleges that the registration of a domain name that is similar to the corporate name or trademark of a large multinational company is an act of bad faith in itself. It notes that the Respondent must have known of its existence for why else would it have tried to pass itself off as the Complainant to that company's customers.

Finally, it argues that using the Disputed Domain Name on a phishing exercise was an act of bad faith in itself.

B. Respondent

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

6. Discussion and Findings

Paragraph 4 (a) of the Policy requires a domain name holder to submit to a mandatory administrative proceeding in the event that a third party (a "complainant") asserts to the applicable domain name dispute resolution provider in compliance with the Rules of Procedure, that

- (i) the domain name in suit is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (ii) the domain name holder has no rights or legitimate interests in respect of the domain name; and
- (iii) such domain name has been registered and is being used in bad faith.

In the administrative proceeding, the complainant must prove that each of these three elements are present.

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 shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the Complainant has established unregistered trademark or service mark rights for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.3.

The Panel finds the mark is recognizable within the Disputed Domain Name. Accordingly, the Disputed Domain Name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. Further, section 1.9 of the WIPO Overview notes that a domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element.

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. 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 (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.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the Disputed 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 Disputed Domain Name such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for illegal activity here, claimed as phishing, distributing malware, unauthorized account access/hacking, impersonation and passing off can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4 (a) (iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith. One of those circumstances is that by using the domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to his or her web site or other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's web site or location or of a product or service on the Respondent's web site or location.

The Panel has already held that the Disputed Domain Name was confusingly similar to the Complainant's mark. It has therefore created "a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's web site." By using the Disputed Domain Name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to his or her web site or other on-line location. That was the object of the phishing exercise.

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 Disputed Domain Name <arcelormottal.com> be transferred to the Complainant.

/Jane Lambert/

Jane Lambert

Sole Panelist

Date: October 10, 2024