

## **ADMINISTRATIVE PANEL DECISION**

Arcelormittal (SA) v. Ogya Adyatma, INFOgya  
Case No. D2022-1212

### **1. The Parties**

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

The Respondent is Ogya Adyatma, INFOgya, Indonesia.

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

The disputed domain name <arcelormsteel.com> is registered with CV. Jogjacamp (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 6, 2022. On April 7, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 8, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 April 11, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 1, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 2, 2022.

The Center appointed Felipe Claro as the sole panelist in this matter on May 10, 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 the owner of the International trademark registration number 778212, ARCELOR, registered on February 25, 2002.

The Complainant also owns many domain names including the mark ARCELOR or similar, such as <arcelor.com> registered and used since August 29, 2001.

The disputed domain name <arcelormsteel.com> was registered on March 31, 2022. The disputed domain name resolves to an inactive page. However, MX servers are configured on the disputed domain name to send emails.

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

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

The Complainant is a company specialized in steel producing in the world. The 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 71.5 million tons crude steel made in 2020. It holds sizeable captive supplies of raw materials and operates extensive distribution networks.

As indicated in section 4 above, the Complainant is the owner of the International trademark registration ARCELOR, registered on February 25, 2002.

The Complainant also owns many domain names including the portion ARCELOR or similar, such as <arcelor.com> registered and used since August 29, 2001.

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

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

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

#### **6. Discussion and Findings**

In view of the lack of a response filed by the Respondent as required under paragraph 5 of the Rules, this proceeding has proceeded by way of default. Hence, under paragraphs 5(e), 14(a) and 15(a) of the Rules, the Panel is directed to decide this administrative proceeding based on the Complainant's undisputed representations. In that regard the Panel makes the following specific findings.

##### **A. Identical or Confusingly Similar**

The disputed domain name is confusingly similar to the Complainant's trademark ARCELOR.

The addition of the letter "m" after the trademark ARCELOR and the term "steel" at the end does not prevent a finding that the disputed domain name is confusingly similar to the trademark ARCELOR. It is 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". See *Dr. Ing. h.c. F. Porsche AG v. Vasilij Terkin*, WIPO Case No. [D2003-0888](#).

Furthermore, the addition of the generic Top-Level Domain ("gTLD") ".com" does not prevent the confusing similarity between the disputed domain name and the Complainant's trademark. As seen in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") section 1.11.1, "[t]he applicable Top-Level Domain ("TLD") in a domain name (e.g., '.com', '.club', '.nyc') is viewed as a standard registration requirement and as such is disregarded under the first element confusion similarity test".

Consequently, the disputed domain name is confusingly similar to the Complainant's registered trademarks ARCELOR.

## **B. Rights or Legitimate Interests**

According to *Croatia Airlines d. d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#), the Complainant is required to make out a *prima facie* case that the Respondent lacks rights or legitimate interests. Once such *prima facie* case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the disputed domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the UDRP.

The Respondent is not identified in the Whois database by the disputed domain name, but as "INFOgya". Previous UDRP panels have held that a Respondent was not commonly known by a disputed domain name if the Whois information was not similar to the disputed domain name. Thus, the Respondent is not known by the disputed domain name within the meaning of paragraph 4(c)(ii) of the UDRP.

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

Neither license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark ARCELOR, or to apply for registration of the disputed domain name, by the Complainant. Moreover, the disputed domain name resolves to an inactive page. The Respondent did not use the disputed domain name, and has provided no demonstrable plan to use the disputed domain name, in connection with a *bona fide* offering of goods or services, and has not made a legitimate noncommercial or fair use of the disputed domain name.

In accordance with the foregoing, the Respondent has no rights or legitimate interests in respect of the disputed domain name.

## **C. Registered and Used in Bad Faith**

The disputed domain name is confusingly similar to the distinctive trademark ARCELOR. The addition of the term "steel" cannot be coincidental, as it directly refers to the products covered by the Complainant's trademarks and more broadly the Complainant's activities.

The Complainant's trademark ARCELOR is widely known. Previous UDRP panels have confirmed the notoriety of the trademark ARCELOR. See, e.g., *Arcelormittal (SA) v. Floyd Martins*, WIPO Case No. [DME2018-0005](#) ("The trademark ARCELOR is well-known and past UDRP decisions confirmed such circumstance (see *Arcelormittal v. PrivacyProtect.org / Mr. Singh (tajgroup@avipl.com)*, *Taj Pharmaceuticals Ltd.*, *Taj Group of Companies*, WIPO Case No. [D2010-0899](#)). A quick search on Google for ARCELOR would have revealed to the Respondent that all the results retrieved are strictly related to the Complainant and its trademark.").

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

Besides, the disputed domain name resolves to an inactive page. The Respondent has not demonstrated any activity 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 the Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant's rights under trademark law. As prior UDRP panels have held, the passive holding of a domain name would not prevent a finding of bad faith registration and use. See, *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#); *CBS Broadcasting, Inc. v. Dennis Toeppen*, WIPO Case No. [D2000-0400](#).

Finally, MX servers are configured which suggests that the disputed domain name may be actively used for email purposes.

Thus, in the totality of the circumstances, the Panel finds the Respondent has registered the disputed domain name and is using it 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, <arcelormsteel.com>, be transferred to the Complainant.

*/Felipe Caro/*

**Felipe Claro**

Sole Panelist

Date: May 24, 2022