

## ADMINISTRATIVE PANEL DECISION

Arcelormittal (SA) v. 高春娣 (GAO CHUNDI)  
Case No. D2023-1927

### 1. The Parties

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

The Respondent is 高春娣 (GAO CHUNDI), China.

### 2. The Domain Name and Registrar

The disputed domain name <accelormetals.com> is registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) (the "Registrar").

### 3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on April 28, 2023. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 8, 2023, 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 (Not Identified) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 8, 2023 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 in English on May 9, 2023.

On May 8, 2023, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On May 9, 2023, the Complainant submitted a request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

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 in English and Chinese of the Complaint, and the proceedings commenced on May 15, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 4, 2023. The Respondent did not submit any

formal response beyond her informal email communication of May 9, 2023, in which, she addressed the substance of the dispute and requested the Registrar to unlock the disputed domain name. On June 5, 2023, the Center notified the Parties that it would proceed to panel appointment.

The Center appointed Matthew Kennedy as the sole panelist in this matter on June 15, 2023. 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 steel producer. It produces steel for use in automotive, construction, household appliances, and packaging products. Its output in 2021 was 69.1 million tonnes of crude steel. It owns multiple trademarks, including the following:

- International trademark registration number 778212 for ARCELOR, registered on February 25, 2002, designating multiple jurisdictions, and specifying goods and services in multiple classes; and
- International trademark registration number 947686 for ARCELORMITTAL, registered on August 3, 2007, designating multiple jurisdictions including China, and specifying goods and services in multiple classes.

The above trademark registrations remain current. The Complainant registered the domain name <arcelormittal.com> on January 27, 2006, and uses the sub-domain <corporate.arcelormittal.com> in connection with a website where it provides information about itself. The Complainant has registered other domain names, including <arcelormetal.com>, registered on March 17, 2015, and <arcelormetals.com>, registered on June 13, 2018, that it holds passively.

The Respondent is an individual based in China.

The disputed domain name was registered on April 24, 2023. It does not resolve to any active website; rather, it is passively held.

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

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

The disputed domain name is confusingly similar to the Complainant's ARCELOR and ARCELORMITTAL trademarks.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is not commonly known by the disputed domain name. The Respondent is not related in any way to the Complainant. The Complainant does not carry out any activity for, nor has any business with, the Respondent. Neither license nor authorization has been granted by the Complainant to the Respondent to make any use of the Complainant's trademarks or to apply for registration of the disputed domain name.

The disputed domain name was registered and is being used in bad faith. The Complainant's trademarks are widely known. Given the distinctiveness of the Complainant's trademarks and reputation, it is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademark. The disputed domain name incorporates a famous mark and is inactive.

## B. Respondent

In her informal email communication, the Respondent stated as follows: 1) the disputed domain name was legally registered with the Registrar; 2) the disputed domain name has not been used and there is no possibility of registration in bad faith. It was only registered on April 24, 2023, for a term of five years, less than two weeks prior to the Respondent's email communication, a period that included the May Day holiday. The Respondent needs time to find a suitable website developer; it is impossible to use the disputed domain name so soon. The Respondent had previously registered the disputed domain name but failed to renew it in time. She used the disputed domain name with a website for several years from 2017 to 2021, and also purchased the service for using the disputed domain name as a company email address; 3) the Respondent has been engaged in the steel business, including the sales of steel pipes, flanges, pipe fittings and other products. Her company works with "metals" and metal products and has no association with "Mittal". There are tens of thousands of companies with names that end in "Metals"; 4) "Accelor" means "accelerator" as the Respondent hopes to provide customers with the most timely and efficient service without any conflict with the Complainant's company name; and 5) the Respondent asks the Registrar to find out if her prior registration of the disputed domain name was in 2011 or 2017. The Respondent submits that she obtained the disputed domain name by legal means for the good faith purpose of creating webpages. There is no bad faith. She asks the Registrar to unlock the disputed domain name.

## 6. Discussion and Findings

### 6.1 Preliminary Issue - Language of the Proceeding

Paragraph 11(a) of the Rules provides that "unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding". The Registrar confirmed that the Registration Agreement for the disputed domain name is in Chinese.

The Complainant requests that the language of the proceeding be English. Its main arguments are that the disputed domain name is in Latin characters not Chinese script; and the use of Chinese would impose a burden on the Complainant due to translation costs that must be deemed significant in view of the low cost of these proceedings.

Paragraphs 10(b) and (c) of the Rules require the Panel to ensure that the Parties are treated with equality, that each Party is given a fair opportunity to present its case and that the administrative proceeding take place with due expedition. Prior UDRP panels have decided that the choice of language of the proceeding should not create an undue burden for the parties. See, for example, *Solvay S.A. v. Hyun-Jun Shin*, WIPO Case No. [D2006-0593](#); and *Whirlpool Corporation, Whirlpool Properties, Inc. v. Hui'erpu (HK) electrical appliance co. Ltd.*, WIPO Case No. [D2008-0293](#).

In the present case, the Panel observes that the Complaint and the amended Complaint were filed in English but the Respondent sent her informal communication in Chinese. The Respondent did not comment on the language of the proceeding but the content of her informal communication shows that she has in fact understood the Complaint and taken the opportunity to present her arguments in reply. Therefore, the Panel considers that requiring either Party to translate its submissions would create an undue burden and delay.

Having considered all the circumstances above, the Panel determines under paragraph 11(a) of the Rules that the language of this proceeding is English but the Panel will accept the informal email communication from the Respondent in Chinese, without translation.

## 6.2 Substantive Issues

Paragraph 4(a) of the Policy provides that the Complainant must prove each of the following elements:

- (i) the disputed 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 disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The burden of proof of each element is borne by the Complainant.

### A. Identical or Confusingly Similar

Based on the evidence submitted, the Panel finds that the Complainant has rights in the ARCELOR and ARCELORMITTAL marks.

The disputed domain name contains “accelor” as its initial element, which differs from the ARCELOR mark in the second letter only. This is an obvious misspelling of that mark, a practice known as “typosquatting”. Although the disputed domain name adds the word “metals”, this addition does not prevent a finding of confusing similarity because there are sufficient aspects of the ARCELOR mark in the disputed domain name for it to be recognizable. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.9.

Further, the operational element of the disputed domain name is “accelormetals”, which differs from the ARCELORMITTAL mark only in the substitution of the second letter of the mark with a “c”, the substitution of the letters “it” with an “e”, and the addition of a plural “s”. Given that these differences have little aural impact, the Panel finds that the disputed domain name is confusingly similar to the ARCELORMITTAL mark as well. See [WIPO Overview 3.0](#), section 1.7.

The only additional element in the disputed domain name is the generic Top-Level Domain (“gTLD”) “.com”. As a standard requirement of domain name registration, this element may be disregarded in the comparison between a domain name and a mark unless it has some impact beyond its technical function, which is not the case here. See [WIPO Overview 3.0](#), section 1.11.

Therefore, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights. The Complainant has satisfied the first element in paragraph 4(a) of the Policy.

### B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets out the following circumstances which, without limitation, if found by the panel, shall demonstrate that the respondent has rights to, or legitimate interests in, a disputed domain name, for the purposes of paragraph 4(a)(ii) of the Policy:

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

As regards the first and third circumstances set out above, the disputed domain name is passively held.

The Complainant submits that it has neither licensed nor authorized the Respondent to make any use of the Complainant's trademarks nor to apply for registration of the disputed domain name. There is no evidence of any preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services, nor is the Respondent making a legitimate noncommercial or fair use of the disputed domain name.

As regards the second circumstance set out above, the Registrar verified that the Respondent's name is listed in the Whois database as “高春娣 (GAO CHUNDI)”, not the disputed domain name. Her email user name is Anne Gao. Nothing in the record demonstrates that the Respondent is commonly known by the disputed domain name.

In summary, the Panel considers that the Complainant has made a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Turning to the Respondent's arguments, she submits that the disputed domain name was legally registered with the Registrar. However, the mere fact of domain name registration does not automatically demonstrate rights or legitimate interests in a domain name for the purposes of the second element of paragraph 4(a) of the Policy, otherwise no complaint could ever succeed, which would be an illogical result. See, for example, *Pharmacia & Upjohn Company v. Moreonline*, WIPO Case No. [D2000-0134](#). The Respondent submits that she needs more time to create a website as the disputed domain name was only registered shortly before the Complaint was filed. However, she provides no evidence of any demonstrable preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services or otherwise. The Respondent claims that she registered and used the disputed domain name in connection with a website and email for several years prior to her current registration. However, she does not substantiate this claim. The Panel also notes that there are no archived screenshots of any webpage associated with the disputed domain name in the Internet archive.<sup>1</sup> The Respondent claims that she included “accelor” in the disputed domain name because it means “accelerator”. However, “accelor” is not an English word and the Panel is not aware of any language in which it means “accelerator”. The Respondent claims that she included the word “metals” in the disputed domain name because she has been engaged in the steel business and her company works with metals. However, she does not substantiate these claims. For the above reasons, the Panel finds that the Respondent has failed to rebut the Complainant's *prima facie* case.

Therefore, based on the record of this proceeding, the Panel finds that the Complainant has satisfied the second element in paragraph 4(a) of the Policy.

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

Paragraph 4(b) of the Policy provides that certain circumstances shall be evidence of the registration and use of a domain name in bad faith but these circumstances are not exhaustive.

With respect to registration, the disputed domain name was registered in 2023, years after the registration of the Complainant's ARCELOR and ARCELORMITTAL marks, in the latter case, where the Respondent is based. The disputed domain name consists of a misspelling of the ARCELOR mark, combined with the word “metals”, which is relevant to the Complainant's business as a steel producer. The disputed domain name is also confusingly similar to the Complainant's domain names <arcelormetal.com> and <arcelormetals.com> which were both registered prior to the registration of the disputed domain name. The disputed domain name does not appear to have any other meaning. The Respondent's explanations for her choice of “accelor” (that it means “accelerator”) and “metals” (that she is engaged in steel sales) are unsubstantiated. In any case, if she were actually engaged in the steel sector, she would have been aware of the

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<sup>1</sup> The Panel notes its general powers articulated *inter alia* in paragraphs 10 and 12 of the Rules and has searched for archived webpages in the Internet archive ([www.archive.org](http://www.archive.org)), which is a matter of public record, to evaluate the Respondent's allegation that she previously used the disputed domain name in connection with a website. The Panel considers this process of evaluation useful to assessing the case merits and reaching a decision. See [WIPO Overview 3.0](#), section 4.8.

Complainant, as it is one of the world's largest steel producers. In view of these circumstances, the Panel has reason to find that the Respondent was aware of the Complainant and its mark at the time when she registered the disputed domain name.

With respect to use, the Respondent currently makes only passive use of the disputed domain name but this does not preclude a finding of use in bad faith. See *Telstra Corporation Ltd v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#). In the present dispute, the disputed domain name contains a misspelling of the ARCELOR mark and the Complainant's domain name <arcelormetals.com>, and is also confusingly similar to the ARCELORMITTAL mark. There appears to be no reason to register and use the disputed domain name other than to confuse Internet users searching for the Complainant or its domain names but who do not know how to spell or make a mistake in spelling its name or its marks. This is an indication of bad faith. The Respondent does not substantiate any part of her explanation of the use that she proposes to make of the disputed domain name. Given these circumstances, the Panel finds it more likely than not that the disputed domain name is being used in bad faith.

Therefore, the Panel finds that the disputed domain name has been registered and is being used in bad faith. The Complainant has satisfied the third element in paragraph 4(a) 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 <accelormetals.com> be transferred to the Complainant.

*/Matthew Kennedy/*

**Matthew Kennedy**

Sole Panelist

Date: June 29, 2023