

ADMINISTRATIVE PANEL DECISION

Arcelormittal (SA) v. bill chill
Case No. DBZ2023-0001

1. The Parties

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

The Respondent is bill chill, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <arcelormittal.bz> is registered with Hosting Concepts B.V. d/b/a Openprovider (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 26, 2023. On April 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 28, 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 5, 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 on May 10, 2023.

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 May 10, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 30, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 16, 2023.

The Center appointed Peter Burgstaller as the sole panelist in this matter on June 23, 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 one of the largest steel manufacturer with customers around the world and more than 157,000 employees (Annex 3 to the Complaint).

The Complainant owns numerous trademark registrations containing the word ARCELORMITTAL around the world, *inter alia*:

- International Registration No. 947686, for goods and services in classes 6, 7, 9, 12, 19, 21, 39, 40, 41 and 42, registered since August 3, 2007, designated for various countries around the world (Annex 4 to the Complaint).

Moreover, the Complainant owns the domain name <arcelormittal.com> since January 27, 2006, for addressing its main website (Annex 5 to the Complaint).

The disputed domain name was registered on April 24, 2023 (Annex 1 to the Complaint).

The disputed domain name resolved to a parking page provided by "Hostinger" (Annex 6 to the Complaint).

Currently, the disputed domain name resolves to an inactive web page.

5. Parties' Contentions

A. Complainant

The Complainant is one of the largest steel producing companies in the world and is the market leader in steel for use in automotive, construction, household appliances and packaging with 69.1 million tons crude steel made in 2021. It holds sizeable captive supplies of raw materials and operates extensive distribution networks.

The Complainant is the owner of the international trademark n° 947686 ARCELORMITTAL registered on August 3, 2007. It also owns an important domain names portfolio, such as the domain name <arcelormittal.com> registered since January 27, 2006.

The disputed domain name is identical to the Complainant's trademark ARCELORMITTAL. The addition of the country-code Top-Level Domain ("ccTLD") ".bz" does not change the overall impression of the disputed domain name as being connected to the Complainant and its trademark.

The Respondent has no rights or legitimate interests in respect of the disputed domain name: Neither license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark ARCELORMITTAL, or apply for registration of the disputed domain name by the Complainant. The Respondent is not related in any way with the Complainant, it is not commonly known by the disputed domain name and make no *bona fide* use of it.

The disputed domain name was registered and is being used in bad faith: The Complainant's trademark ARCELORMITTAL is widely known and distinctive. The Respondent must have been aware of the Complainant and its trademark when registering the disputed domain name. Further, the disputed domain name resolved to a parking page which is in the concept of bad faith use under the Policy. Moreover, 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.

B. Respondent

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

6. Discussion and Findings

According to 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; and
- (ii) the Respondent has no rights or legitimate interests with respect to the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

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 identity or confusing similarity involves a reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name. This test typically involves a side-by-side comparison of the disputed domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.

The Complainant submitted evidence, which incontestably and conclusively establishes rights in the trademark ARCELORMITTAL.

In the present case, the disputed domain name is identical to the Complainant's registered trademark ARCELORMITTAL since the Complainant's mark is not only recognizable in the disputed domain name but it is taken over in its entirety without additions or omissions.

It has long been established under UDRP decisions that ccTLDs are generally disregarded when evaluating the identity or confusing similarity of a disputed domain name.

The Panel therefore finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy in the present case.

B. Rights or Legitimate Interests

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 (see section 2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Here, the Complainant has put forward a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, which has not been rebutted by the Respondent. Furthermore, the nature of the disputed domain name, comprising the Complainant's famous and distinctive mark in its entirety, cannot be considered fair as these falsely suggest an affiliation with the Complainant that does not exist (see section 2.5.1 of the [WIPO Overview 3.0](#)).

Noting the above, and in the absence of any Response or allegations from the Respondent, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

As stated in many decisions rendered under the Policy (e.g. *Robert Ellenbogen v. Mike Pearson*, WIPO Case No. [D2000-0001](#)) both conditions, registration and use in bad faith, must be demonstrated; consequently, the Complainant must show that:

- the disputed domain name was registered by the Respondent in bad faith, and
- the disputed domain name is being used by the Respondent in bad faith.

(i) The Complainant has rights and is the owner of the well-known, famous and highly distinctive registered trademark ARCELORMITTAL, which is registered and used in many jurisdictions around the world for years. Moreover, the Complainant registered and is using domain names containing the mark ARCELORMITTAL e.g. <arcelormittal.com>.

It is inconceivable for this Panel that the Respondent registered the disputed domain name without knowledge of the Complainant's rights which were established long before the registration of the disputed domain name; these facts lead to the necessary inference of bad faith. This finding is supported by the fact that the disputed domain name incorporates the Complainant's distinctive trademark ARCELORMITTAL entirely.

Therefore, the Panel is convinced that the disputed domain name was registered in bad faith by the Respondent.

(ii) The disputed domain name is also being used in bad faith: Although there is no evidence that the disputed domain name is being actively used or resolved to a website with substantive content, previous UDRP panels have found that bad faith under paragraph 4(a)(iii) does not necessarily require a positive act on the part of the respondent – the non-use of a domain name (including a blank or “coming soon” page) would not prevent a finding of bad faith, since also inaction is within the concept or paragraph 4(a)(iii) under the doctrine of passive holding (see especially *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#); *Ladbroke Group Plc v. Sonoma International LDC*, WIPO Case No. [D2002-0131](#)).

This Panel concludes that the disputed domain name is being used in bad faith, putting emphasis on the following:

- the Complainant's trademark ARCELORMITTAL is famous with a high distinctiveness and is well-known globally;
- the Respondent has failed to present any evidence of any good faith use with regard to the disputed domain name;
- the disputed domain name is inherently misleading, and is thus suited to divert or mislead potential web users from the website they are actually trying to visit (the Complainant's site); and
- there is no conceivable plausible good faith use with regard to the disputed domain name.

Taking all these facts and evidence into consideration this Panel finds that the disputed domain name has been registered and used in bad faith under paragraph 4(a)(iii) 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 <arcelormittal.bz> be transferred to the Complainant.

/Peter Burgstaller/

Peter Burgstaller

Sole Panelist

Date: July 7, 2023