

## **ADMINISTRATIVE PANEL DECISION**

Arcelormittal v. Giselle Perez, Epsilon Comunicacion SL  
Case No. D2023-3300

### **1. The Parties**

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

The Respondent is Giselle Perez, Epsilon Comunicacion SL, Spain.

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

The disputed domain name <xacelormittal.com> is registered with IONOS SE (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 1, 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 August 2, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on August 4, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint.

The Center sent an email communication in English and Spanish to the parties on August 4, 2023 regarding the language of the proceeding, as the Complaint has been submitted in Spanish and the language of the registration agreement for the disputed domain name is English. The Respondent did not comment on the language of the proceeding. The Complainant filed an amended Complaint in English on August 4, 2023.

The Center verified that the Complaint together with 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 August 11, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 31, 2023. The Respondent did not submit any response.

Accordingly, the Center notified the Respondent's default on September 1, 2023.

The Center appointed Ganna Prokhorova as the sole panelist in this matter on September 6, 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 world company specialized in steel producing and is the market leader in steel for use in automotive, construction, household appliances and packaging with 59 million tons crude steel made in 2022.

The Complainant is the owner of the international trademark portfolio, including international trademark no. 947686 ARCELORMITTAL, registered on August 3, 2007 for goods and services in classes 06, 07, 09, 12, 19, 21, 39, 40, 41, 42 of the International Classification of Goods and Services.

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

The disputed domain name was registered on July 27, 2023, and resolves to a Registrar parking page.

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

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

The Complainant asserts that each of the elements enumerated in paragraph 4(a) of the Policy and the corresponding provisions in the Rules have been satisfied. In particular, the Complainant asserts that:

- (1) the disputed domain name is confusingly similar to its ARCELORMITTAL trademark in which the Complainant has rights. The addition of the letter "x" and the deletion of the letter "r" is not sufficient to escape the finding that the domain name is confusingly similar to the trademark ARCELORMITTAL.
- (2) the Respondent has no rights or legitimate interests in respect of the disputed domain name, and it is not related in any way with the Complainant. The Respondent is not identified in the Whois database as the disputed domain name and is not known as the disputed domain name. The Complainant does not carry out any activity for, nor has any business with the Respondent. 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. Moreover, the Complainant also claims that the disputed domain name is a typosquatted version of the trademark ARCELORMITTAL. The disputed domain name redirects to a parking page.
- (3) the disputed domain name was registered and is being used in bad faith. The Complainant's trademark ARCELORMITTAL is widely known. The Respondent has registered the disputed domain name with full knowledge of the Complainant's trademark. The misspelling of the trademark ARCELORMITTAL was intentionally designed to be confusingly similar with the Complainant's trademark. 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.

## B. Respondent

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

## 6. Discussion and Findings

To succeed, the Complainant must demonstrate that all the elements listed in paragraph 4(a) of the Policy have been satisfied, as following:

- (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 Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complaint.

Moreover, the Panel has taken note of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") and, where appropriate, will decide consistent with the consensus views captured therein.

### A. Identical or Confusingly Similar

According to paragraph 4(a)(i) of the Policy it should be established that the disputed domain name is identical or confusingly similar to a mark in which the complainant has rights.

The Panel confirms that for the purposes of paragraph 4(a)(i) of the Policy, the Complainant has satisfied the threshold requirement of having relevant trademark rights for ARCELORMITTAL in jurisdictions throughout the world.

With the Complainant's rights in ARCELORMITTAL trademark established, the remaining question under the first element of the Policy is whether the disputed domain name is identical or confusingly similar to the Complainant's mark.

It is well accepted that the first element functions primarily as a standing requirement and that the 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. 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 disputed domain name contains the name "arcelormittal" almost in its entirety, omitting the first letter "r" in the disputed domain name, and adding the letter "x" in the beginning, which is not sufficient to escape the finding that the disputed domain name is confusingly similar to the trademark. Prior UDRP panels have recognized that confusing similarity is established for purposes of the Policy where the disputed domain name incorporates the complainant's trademark in its entirety. See [WIPO Overview 3.0](#), section 1.7. Furthermore, the Panel considers that this is a clear case of typosquatting since the disputed domain name is a slight misspelling of the Complainant's registered trademark (see Section 1.9 of the [WIPO Overview 3.0](#)).

Furthermore, the Panel considers that the misspelling of the Complainant's trademark within the disputed domain name <xacelormittal.com> cannot prevent a finding a confusing similarity ([WIPO Overview 3.0](#) at section 1.9).

The generic Top-Level Domain (“gTLD”) “.com” may be disregarded for purposes of comparison under the first element, as they are viewed as a standard registration requirement. See [WIPO Overview 3.0](#), section 1.11.1.

For all of the above-mentioned reasons, the Panel concludes that the disputed domain name is confusingly similar to the Complainant’s trademark and therefore finds that the requirement of paragraph 4(a)(i) of the Policy is satisfied.

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

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

As established by previous UDRP panels, it is sufficient for the Complainant to make a *prima facie* case demonstrating that the Respondent has no rights or legitimate interests in the disputed domain name in order to place the burden of production on the Respondent (see section 2.1 of the [WIPO Overview 3.0](#)).

In the present case, the Complainant has established a *prima facie* case that the Respondent has no legitimate reason to register and use the disputed domain name.

The evidence in the case file shows that the Respondent is not identified in the Whois database as the disputed domain name and not commonly known by the disputed domain name.

The Complainant has credibly submitted that the Respondent is neither affiliated with the Complainant in any way nor has it been authorized by the Complainant to use and register the disputed domain name, that the Respondent has no rights or legitimate interests in the disputed domain name, and that the Respondent has not made and is not making a legitimate noncommercial or fair use of the disputed domain name and is not commonly known by the disputed domain name in accordance with paragraph 4(c)(ii) of the Policy.

Moreover, given that the disputed domain name consists of a misspelling of the Complainant’s trademark, the Panel struggles to conceive any legitimate interests of the Respondent in the disputed domain name. Under such circumstances, any potential use of the disputed domain name by the Respondent only increases the possibility of the Internet users to falsely attribute the disputed domain name to the activities of the Complainant.

The present submission also does not contain any evidence that the Respondent has been commonly known by the disputed domain name as an individual, business, or other organization.

The disputed domain name resolves to an parked webpage. According to this Panel, the Complainant also proved that the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name nor is it using the disputed domain name in connection with a *bona fide* offering of goods or services, so as to confer a right or legitimate interest in it in accordance with paragraph 4(c)(i) of the Policy.

Accordingly, the Panel finds that the Complainant has made a *prima facie* case that has not been rebutted by the Respondent. Once the Complainant makes a *prima facie* case, the burden of production shifts to the Respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the disputed domain name.

The Respondent has not replied to the Complainant’s contentions, claiming any rights or legitimate interests in the disputed domain name. With the evidence on file, the Panel finds that the requirement of paragraph 4(a)(ii) of the Policy is satisfied and that it is undoubtedly established that the Respondent has no rights or legitimate interests in respect to the disputed domain name.

### C. Registered and Used in Bad Faith

According to paragraph 4(a)(iii) of the Policy, the Complainant must prove on the balance of probabilities both that the disputed domain name was registered in bad faith and that it is being used in bad faith.

The Complainant's trademark ARCELORMITTAL significantly predates the registration date of the disputed domain name. In addition, the Complainant enjoys a long-lasting worldwide reputation, which has also been established by several previous panels for years. See *ArcelorMittal SA v. Tina Campbell*, WIPO Case No. [DCO2018-0005](#). Therefore, under this Panel's view, the Respondent's choice of the disputed domain name cannot have been accidental and must have been influenced by the fame of the Complainant and its earlier trademarks. UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or well-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. See *Carrefour SA v. blackwhite, dolly Tiwari*, WIPO Case No. [D2021-0274](#).

Equally, registering the disputed domain name which is confusingly similar to the Complainant's trademark ARCELORMITTAL, since the addition of the letter "x" and omitting the letter "r" is a form of typosquatting, is in itself evidence of bad faith. See section 3.1.4 of the [WIPO Overview 3.0](#).

In light of these particular circumstances, the Panel concludes that the Complainant has succeeded in proving the requirement of paragraph 4(a)(iii) that the disputed domain name was registered in bad faith by the Respondent.

Furthermore, the disputed domain name is passively held by the Respondent. It has been established in many UDRP cases that passive holding under the appropriate circumstances falls within the concept of a domain name being used in bad faith. Section 3.3 of the [WIPO Overview 3.0](#) describes the circumstances under which the passive holding of a domain will be considered to be in bad faith: "While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put."

The Respondent has provided no evidence of actual or contemplated good-faith use of the disputed domain name and, under the circumstance of this case, the Panel does not find any such use plausible.

In light of the above, the Panel finds that the Respondent has registered and used the disputed domain name in bad faith and that the Complainant has established its case 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 <xacelormittal.com> be transferred to the Complainant.

*/Ganna Prokhorova/*

**Ganna Prokhorova**

Sole Panelist

Date: September 20, 2023