

ADMINISTRATIVE PANEL DECISION

Arcelormittal (SA) v. 刘艳军(Liu YanJun), 阿赛洛国际贸易（上海）有限公司
(ASaiLuoGuoJiMaoYi(ShangHai)YouXianGongSi)
Case No. D2022-0930

1. The Parties

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

The Respondent is 刘艳军(Liu YanJun), 阿赛洛国际贸易（上海）有限公司
(ASaiLuoGuoJiMaoYi(ShangHai)YouXianGongSi), China.

2. The Domain Name and Registrar

The disputed domain name <arcelormittalch.com> is registered with Chengdu West Dimension Digital Technology Co., Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on March 16, 2022. On March 17, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 18, 2022, 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 March 18, 2022, 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 March 18, 2022.

On March 18, 2022, the Center sent an email in English and Chinese to the Parties regarding the language of the proceeding. The Complainant confirmed its request that English be the language of the proceeding on March 18, 2022. 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 March 24, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 13, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 14, 2022.

The Center appointed Joseph Simone as the sole panelist in this matter on April 19, 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, Arcelormittal (SA), is a leading player in steel manufacturing.

The Complainant owns the International Trade Mark ARCELORMITTAL, No. 947686, registered on August 3, 2007, covering goods and services in classes 6, 7, 9, 12, 19, 21, 39, 40, 41, and 42, with multiple designations including China.

The Complainant owns the domain name <arcelormittal.com>.

The disputed domain name was registered on March 14, 2022.

According to screenshots provided by the Complainant, at the time of filing the Complaint, the disputed domain name resolved to an error page. At the time of this Decision, the disputed domain name resolves to a website that introduces the Complainant's businesses in the name of the Complainant's subsidiary in Shanghai, China.

5. Parties' Contentions

A. Complainant

The Complainant asserts that it has prior rights in the ARCELORMITTAL trade marks and that it is a leading player in its fields of business.

The Complainant further asserts that the disputed domain name is identical or confusingly similar to the Complainant's ARCELORMITTAL trade marks, and the addition of the term "ch" does not affect the analysis as to whether the disputed domain name is identical or confusingly similar to the Complainant's trade marks.

The Complainant also asserts that it has not authorized the Respondent to use the ARCELORMITTAL mark and there is no evidence to suggest that the Respondent has used, or undertaken any demonstrable preparations to use, the disputed domain name in connection with a *bona fide* offering of goods or services.

The Complainant further asserts that there is no evidence suggesting that the Respondent has any connection to the ARCELORMITTAL mark in any way, and that there is no plausible good faith reason for the Respondent to have registered the disputed domain name, especially after considering the relevant circumstances. The Complainant therefore concludes that the registration and any use of the disputed domain name whatsoever must be in bad faith.

B. Respondent

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

6. Discussion and Findings

A. Language of Proceedings

In accordance with paragraph 11(a) of the Rules:

“[...] 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.”

In this case, the language of the Registration Agreement for the disputed domain name is Chinese. Hence, the default language of the proceeding should in principle be Chinese.

However, the Complainant filed the Complaint in English, and requested that English be the language of the proceeding, asserting *inter alia* that:

- The choice of language is related to the combined fact that the English language is the language most widely used in international relations and is one of the working languages of the Center;
- The disputed domain name is registered in Latin characters rather than Chinese script; and
- The translation of the Complaint would only unduly burden the Complainant and unnecessarily delay the proceeding.

The Respondent was notified in both Chinese and English of the language of the proceeding and the Complaint, and the Respondent did not comment on the language of the proceeding or submit any response.

Considering the circumstances in this case, the Panel has determined that the language of the proceeding shall be English, and the Panel has issued this decision in English. The Panel further finds that such determination would not cause any prejudice to either Party and would ensure that the proceeding takes place with due expedition.

B. Identical or Confusingly Similar

The Panel acknowledges that the Complainant has established rights in the ARCELORMITTAL trade marks in many territories around the world.

Disregarding the generic Top-Level Domain (“gTLD”) “.com”, the disputed domain name incorporates the Complainant’s trade mark ARCELORMITTAL in its entirety. The Panel further notes that the addition of the characters “ch” does not prevent a finding of confusing similarity.

The Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy in establishing its rights in the ARCELORMITTAL trade marks and in demonstrating that the disputed domain name is confusingly similar to its marks.

C. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, the complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name. Once such a *prima facie* case is made, the respondent bears the burden of producing evidence in support of its rights or legitimate interests in the disputed domain name. If the respondent fails to do so, the complainant may be deemed to have satisfied paragraph 4(a)(ii) of the Policy. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 2.1.

The Complainant asserts that it has not authorized the Respondent to use its trade marks and there is no evidence to suggest that the Respondent has used, or undertaken any demonstrable preparations to use, the disputed domain name in connection with a *bona fide* offering of goods or services. Thus, the Complainant has established its *prima facie* case with satisfactory evidence.

The Respondent did not file a response and has therefore failed to assert factors or put forth evidence to establish that it enjoys rights or legitimate interests in the disputed domain name. As such, the Panel concludes that the Respondent has failed to rebut the Complainant's *prima facie* showing of the Respondent's lack of rights or legitimate interests in the disputed domain name, and that none of the circumstances of paragraph 4(c) of the Policy is applicable in this case.

Prior to the notice of the dispute, the Respondent did not provide any evidence of any use of the disputed domain name or a trade mark corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services. By incorporating the Complainant's distinctive trademark in its entirety, the disputed domain name unfairly suggests affiliation to the Complainant, contrary to the fact.

[WIPO Overview 3.0](#), section 2.5.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name pursuant to paragraph 4(a)(ii) of the Policy.

D. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy states that any of the following circumstances, in particular but without limitation, shall be considered as evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant (the owner of the trade mark or service mark) or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or
- (ii) circumstances indicating that the respondent registered the domain name to prevent the owner of the trade mark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) circumstances indicating that the respondent registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) circumstances indicating that the respondent is using the domain name to intentionally attempt to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on its website or location.

The examples of bad faith registration and use set forth in paragraph 4(b) of the Policy are not meant to be exhaustive of all circumstances in which bad faith may be found. See *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#). The overriding objective of the Policy is to curb the abusive registration of domain names in circumstances where the registrant seeks to profit from and exploit the trade mark of another party. See *Match.com, LP v. Bill Zag and NWLAWS.ORG*, WIPO Case No. [D2004-0230](#).

For the reasons discussed under this and the preceding heading, the Panel believes that the Respondent's conduct in this case constitutes bad faith registration and use of the disputed domain name.

When the Respondent registered the disputed domain name, the ARCELORMITTAL trade marks were already widely known and directly associated with the Complainant's activities. Panels have consistently found that the mere registration of a domain name that is confusingly similar (particularly domain names incorporating the mark plus a descriptive term) to a famous or widely-known trade mark by an unaffiliated

entity can by itself create a presumption of bad faith. See [WIPO Overview 3.0](#), section 3.1.4.

Given the extensive prior use and fame of the Complainant's marks, in the Panel's view, the Respondent should have been aware of the Complainant's marks when registering the disputed domain name.

The Respondent has provided no evidence to justify its choice of the term "arcelormittal" in the disputed domain name. In light of the foregoing, it would be unreasonable to conclude that the Respondent – at the time of the registration of the disputed domain name – was unaware of the Complainant's trade mark, or that the Respondent's adoption of the distinctive trade mark ARCELORMITTAL was a mere coincidence.

The Complainant's registered trade mark rights in ARCELORMITTAL for its signature products and services predate the registration date of the disputed domain name by almost two decades. A simple online search (e.g., via Google) for the term "arcelormittal" would have revealed that it is a world-renowned brand.

The Panel is therefore of the view that the Respondent registered the disputed domain name with full knowledge of the Complainant's trade mark rights.

The Respondent has used the disputed domain name for a website that introduces the Complainant's businesses in China in the name of the Complainant's Chinese subsidiary. Therefore, the Respondent is intentionally attempt to attract Internet users to its website or other online locations, by creating a likelihood of confusion with the Complainant's mark. Such use may also disrupt the Complainant's business. Notwithstanding the current use, the disputed domain name was previously being passively held by the Respondent. However, passive holding does not prevent a finding of bad faith and considering the circumstances the case (*i.e.*, Respondent lack of reply, the distinction of the Complainant's trademark, and the lack of any credible good-faith use to which the dispute domain name could be put), the Panel so finds.

Accordingly, the Panel finds that the disputed domain name was registered and is being used 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, <arcelormittalch.com>, be transferred to the Complainant.

/Joseph Simone/

Joseph Simone

Sole Panelist

Date: May 3, 2022