

ADMINISTRATIVE PANEL DECISION

Arcelormittal (SA) v. Renata Paola Cardona Ulin
Case No. D2023-1441

1. The Parties

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

The Respondent is Renata Paola Cardona Ulin, Mexico.

2. The Domain Name and Registrar

The disputed domain name <arcelormittalmx.net> is registered with Wix.com Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed in Spanish with the WIPO Arbitration and Mediation Center (the “Center”) on April 4, 2023. On April 4, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 10, 2023, 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.

On April 24, 2023, the Center informed the parties in Spanish and English, that the language of the registration agreement for the disputed domain name is English. On April 24, 2023, the Complainant submitted the Complaint translated into English, without further requesting Spanish to be the language of the administrative proceedings. The Respondent did not submit any comment on the Complainant’s submission.

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 May 2, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 22, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 30, 2023.

The Center appointed, Beatrice Onica Jarka as the sole panelist in this matter on June 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 Arcelormittal S.A. is a company specialized in steel producing in the world (please see their website at: "www.arcelormittal.com").

The Complainant is one of the largest steel producing companies in the world and is one of the market leaders 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 no. 947686 ARCELORMITTAL registered on August 3, 2007.

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

The disputed domain name <arcelormittalmx.net> was registered on March 29, 2023 and resolves to a parking page with MX servers being configured.

5. Parties' Contentions

A. Complainant

By the Complaint, the Complainant contends that:

- The disputed domain name <arcelormittalmx.net> is confusingly similar to the trademark ARCELORMITTAL, as it includes it in its entirety.
- The addition of the term "mx" (which means "Mexico") is not sufficient to escape the finding that the disputed domain name is confusingly similar to the trademark and branded goods ARCELORMITTAL. On the contrary, the addition of the term "mexico" worsens the likelihood of confusion between the disputed domain name and the Complainant's trademark, as the Complainant operates worldwide, especially in Mexico.
- Moreover, the addition of the generic Top-Level Domain ("gTLD") ".com" does not change the overall impression of the designation as being connected to the Complainant's trademark and it does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and its domain names associated.
- The Respondent is not known as the disputed domain name, but as "Renata Paola Cardona Ulin".
- The Respondent has no rights or legitimate interests in respect of the disputed domain name <arcelormittalmx.net> and it is not related in any way with the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent and 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 disputed domain name resolves to a parking page which indicates that the Respondent did not use the disputed domain name until its creation, and it confirms that the Respondent has no demonstrable plan to use the disputed domain name.

- The Complainant's mark ARCELORMITTAL is widely known. Thus, 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.
- The Respondent has not demonstrated any activity in respect of the disputed domain name until its creation, 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.
- The MX servers being configured suggests that the disputed domain name may be actively used for email purposes.
- The Respondent has registered the disputed domain name <arcelormittalmx.net> and is using it in bad faith.

B. Respondent

Although properly summoned, the Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

The Panel finds that the Complainant has rights in the ARCELORMITTAL trademark acquired through international registration.

Further, the Panel agrees with the Complainant, that the disputed domain name is confusingly similar to the trademark ARCELORMITTAL, as it includes it in its entirety.

Moreover, the Panel considers that neither the addition of the term "mx", nor the addition of the gTLD ".net", which is a technical standard requirement, prevent the finding of confusingly similarity with the Complainant's trademark ARCELORMITTAL.

It is a long established UDRP practice (see section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") according to which the test for confusing similarity typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name, which is the case in these proceedings.

Therefore the Panel finds that the Complainant's trademark is recognizable in the disputed domain name which makes the disputed domain name confusingly similar to the trademark and the first element under of paragraph 4(a) of the Policy is accordingly established.

B. Rights or Legitimate Interests

In relation to the second element of the Policy, the Complainant has to show that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. If the Complainant makes that *prima facie* showing, the burden of production shifts to the Respondent, according to the section 2.1 of the [WIPO Overview 3.0](#).

In these proceedings, this Panel finds that the Complainant has made a *prima facie* showing that the Respondent lacks rights or legitimate interests in respect of the disputed domain name and such showing has not been rebutted by the Respondent, as it did not reply to the Complainant's contentions.

There is no evidence that the Respondent is commonly known as trademarks ARCELORMITTAL. According to the Complainant, the last has not authorized the Respondent to use the ARCELORMITTAL mark nor there is an indication in regards of any use of the Complainant's trademark ARCELORMITTAL by the Respondent, or of any application for registration of the disputed domain name by the Complainant.

Accordingly, the Panel finds that the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name.

Therefore, in the opinion of this Panel, the Complainant has fully demonstrated that the Respondent lacks rights or legitimate interests in the disputed domain name, and consequently, the second element of paragraph 4(a) of the Policy is therefore established.

C. Registered and Used in Bad Faith

According to paragraph 4(a)(iii) of the Policy the Complainant has to prove both registration and use of the disputed domain name in bad faith.

The Panel agrees with the Complainant's trademark ARCELORMITTAL is widely known. Thus, given the distinctiveness of the Complainant's trademark and reputation, it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's trademark.

In addition, the lack of use of the disputed domain name does not prevent a finding of bad faith. The Panel finds that the Respondent has not demonstrated any activity in respect of the disputed domain name, and given the circumstances of the case, it is not possible to conceive of any plausible actual or contemplated active use in good faith of the disputed domain name by the Respondent.

Also, in the opinion of this Panel, the fact that the MX servers being configured suggests that the disputed domain name may be actively used for fraudulent email purposes.

Considering also that the Responder defaulted, this Panel finds that all the above circumstances indicate that the Respondent has registered the disputed domain name <arcelormittalmx.net> 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, <arcelormittalmx.net>, be transferred to the Complainant.

/Dr. Beatrice Onica Jarka/

Dr. Beatrice Onica Jarka

Sole Panelist

Date: June 20, 2023