

ADMINISTRATIVE PANEL DECISION

Arcelormittal SA v. Bienvenu Bikoumou

Case No. D2023-2253

1. The Parties

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

The Respondent is Bienvenu Bikoumou, Australia.

2. The Domain Name and Registrar

The disputed domain name <belgium-arcelomittal.com> (the “Domain Name”) is registered with Marcaria.com International, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 24, 2023. On May 24, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On May 31, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on June 1, 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 June 1, 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 June 2, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 22, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 23, 2023.

The Center appointed Jonas Gulliksson as the sole panelist in this matter on June 27, 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 company based in Luxembourg that specializes in producing steel. The Complainant is the proprietor of the International trademark registration n° 947686 for ARCELORMITTAL, registered on August 3, 2007. Further, the Complainant is the proprietor of the domain name <arcelormittal.com>, registered January 27, 2006.

The Domain Name was registered on May 22, 2023.

The website to which the Domain Name resolves is a parked page and MX servers have been configured to the Domain Name.

5. Parties' Contentions

A. Complainant

The Complainant asserts, substantially, the following:

The Domain Name is confusingly similar to the Complainant's trademark ARCELORMITTAL.

The Respondent has no rights or legitimate interests in respect of the Domain Name and is not related in any way with the Complainant. The Complainant does not carry out an activity for, nor has any business with, the Respondent. No license nor authorization has been granted to the Respondent to make any use of the Complainant's mark nor to apply for registration of the Domain Name. Further, the Respondent is not identified in the Whois database as the Domain Name, but as *Bienvenu Bikoumou*. Thus, the Respondent is not commonly known by the Domain Name. The Domain Name redirects to a parked page. Thus, the Respondent has not made any use of the Domain Name since the registration and has no demonstrable plan to use the Domain Name.

The Respondent registered and is using the Domain Name in bad faith. Considering the distinctiveness and reputation of the Complainant's ARCELORMITTAL mark, the trademark being well-known, the Respondent has registered the Domain Name with full knowledge of the Complainant's mark. Further, the Domain Name resolves to a parked page and the Respondent has not demonstrated any active use of the Domain Name. Furthermore, MX servers are configured which can indicate that the Domain Name might be actively used for email purposes.

B. Respondent

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

6. Discussion and Findings

The burden for the Complainant under paragraph 4(a) of the Policy is to prove:

- (i) that the Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) that the Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) that the Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has established that it holds trademark rights in relation to ARCELORMITTAL.

The part of the Domain Name consisting of “Arcelomittal” is confusingly similar to the Complainant’s mark. According to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.9, a domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered to be confusingly similar to the relevant mark for purposes of the first element. The inconsistent spelling with the difference in an “R” at the end of “Arcelo[r]” is not sufficient in order to prevent a finding of confusing similarity between the Domain Name and the Complainant’s mark. The addition of “Belgium-” in the Domain Name is also not sufficient in order to prevent a finding of confusing similarity between the Domain Name and the Complainant’s mark. The Complainant’s mark is recognizable within the Domain Name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity under the first element (See [WIPO Overview 3.0](#), section 1.8). Further, it is well established that “.com”, as a generic Top-Level-Domain, is typically disregarded in the assessment of confusing similarity (see section 1.11.1 of the [WIPO Overview 3.0](#)).

Accordingly, the Panel finds that that the Domain Name is confusingly similar to a trademark in which the Complainant has rights, in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant must first make out a *prima facie* case showing that the respondent lacks rights or legitimate interests in respect of a disputed domain name and then the burden, in effect, shifts to the respondent to come forward with evidence of its rights or legitimate interests, if the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element (see [WIPO Overview 3.0](#), section 2.1).

Considering the evidence presented in the case, and the Complainant’s un rebutted contentions that the Respondent has no rights or legitimate interests in the Domain Name, the Panel finds that the Complainant has made out an undisputed *prima facie* case.

The Panel finds that the Complainant has established that the Respondent lacks rights or legitimate interests in the Domain Name, in accordance with paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Complainant’s rights to the ARCELORMITTAL mark were obtained well before the Respondent’s registration of the Domain Name. Considering the reputation of the Complainant’s mark, the Respondent must have been aware of the Complainant and its ARCELORMITTAL mark when registering the Domain Name. Furthermore, the Domain Name is not being used, which is perceived by the Panel as a passive holding of the Domain Name by the Respondent. Non-use of a domain name (including a blank or “coming soon” page) does not prevent a finding of bad faith under the doctrine of passive holding (see [WIPO Overview 3.0](#), section 3.3). In addition, the configured MX servers creates a likelihood that the Domain Name might be used for sending emails, which is another indication of bad faith (see [WIPO Overview 3.0](#), section 3.4).

Considering the above the Panel finds that the 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 Domain Name <belgium-arcelomittal.com> is transferred to the Complainant.

/Jonas Gulliksson/

Jonas Gulliksson

Sole Panelist

Date: July 11, 2023