

ADMINISTRATIVE PANEL DECISION

Arcelormittal v. ru lin zhang, zhangru lin
Case No. D2023-2443

1. The Parties

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

The Respondent is ru lin zhang, zhangru lin, China.

2. The Domain Name and Registrar

The disputed domain name <mittalsteelostrava.com> is registered with GMO Internet, Inc. d/b/a Discount-Domain.com and Onamae.com (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on June 6, 2023. On June 6, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 7, 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 (Whois Privacy Protection Service by onamae.com) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 9, 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 in English on June 12, 2023.

On June 9, 2023, the Center transmitted an email communication to the Parties in English and Japanese regarding the language of the proceeding. On June 12, 2023, the Complainant submitted a request that English be the language of the proceeding. 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 Japanese of the Complaint, and the proceedings commenced on June 15, 2023. In accordance with the

Rules, paragraph 5, the due date for Response was July 5, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 6, 2023.

The Center appointed Keiji Kondo as the sole panelist in this matter on July 24, 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 specialized in steel producing, and doing business around the world. The Complainant is one of the largest steel producing companies in the world and is a market leader in steel for use in automotive, construction, household appliances and packaging.

The Complainant owns several trademarks including the wording "MITTAL STEEL" in several countries, such as:

- European Union Trade Mark registration for MITTAL STEEL, No. 004233301, registered since March 27, 2006.

The disputed domain name <mittalsteelostrava.com> was registered on June 2, 2023, and it is inactive.

5. Parties' Contentions

A. Complainant

The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (Policy, Paragraph 4(a)(i); Rules, Paragraphs 3(b)(viii), (b)(ix)(1)).

The Complainant submits that the disputed domain name <mittalsteelostrava.com> is confusingly similar to its trademark MITTAL STEEL. The Complainant's trademark is included in its entirety.

The Complainant asserts that the addition of the geographic term "OSTRAVA" is not sufficient to escape the finding that the disputed domain name is confusingly similar to the trademark. It does not change the overall impression of the designation as being connected to the Complainant's trademark. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant and its trademark. It is well-established that "a domain name that wholly incorporates a Complainant's registered trademark may be sufficient to establish confusing similarity for purposes of the UDRP". Please see *Dr. Ing. h.c. F. Porsche AG v. Vasily Terkin*, WIPO Case No. [D2003-0888](#).

On the contrary, the association of the geographic term "Ostrava" with the trademark worsens the likelihood of confusion between the disputed domain name and the Complainant's trademark. Indeed, it refers directly to the old name of the company LIBERTY OSTRAVA, previously owned by the Complainant.

Furthermore, the Complainant contends that 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. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant and its trademark. The WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") section 1.11.1 states, "the applicable Top Level Domain ('TDL') in a domain name (e.g., '.com', '.club', '.nyc') is viewed as a standard registration requirement and as such is disregarded under the first element confusion similarity test".

Consequently, the disputed domain name <mittalsteelostrava.com> is confusingly similar to the Complainant's trademark MITTAL STEEL.

The Respondent has no rights or legitimate interests in respect of the domain name (Policy, Paragraph 4(a)(ii); Rules, Paragraph 3(b)(ix)(2)).

According to *Croatia Airlines d. d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#), the Complainant is required to make out a *prima facie* case that the Respondent lacks rights or legitimate interests. Once such *prima facie* case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a) (ii) of the UDRP.

The Complainant asserts that the Respondent is not identified in the Whois database as the disputed domain name. Past UDRP panels have held that a respondent was not commonly known by a disputed domain name if the Whois information was not similar to the disputed domain name. Thus, the Respondent is not known as the disputed domain name.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name <mittalsteelostrava.com> 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. Neither license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark, or apply for registration of the disputed domain name by the Complainant.

Furthermore, the disputed domain name is inactive. The Complainant contends that the Respondent did not make any use of disputed domain name, and it confirms that the Respondent has no demonstrable plan to use the disputed domain name. It proves a lack of legitimate interests in respect of the disputed domain name except in order to create a likelihood of confusion with the Complainant and its trademark.

Thus, in accordance with the foregoing, the Complainant contends that the Respondent has no right or legitimate interest in respect of the disputed domain name <mittalsteelostrava.com>.

The domain name was registered and is being used in bad faith (Policy, paragraphs 4(a)(iii), 4(b); Rules, paragraph 3(b)(ix)(3)).

The Complainant contends that the disputed domain name is confusingly similar to its distinctive trademark MITTAL STEEL. 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.

Furthermore, the disputed domain name is inactive. The Complainant contends that 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.

Based on this information, previous panels have held that the mere registration of a domain name that is identical or confusingly similar to a well-known or widely-known trademark by an unaffiliated entity may be sufficient to create a presumption of bad faith ([WIPO Overview 3.0](#), section 3.1.4). In addition, the disputed domain name is not used or does not indicate any information about a development project. Such a practice, defined in many previous decisions as "passive holding", is considered as a bad faith use.

On those facts, the Complainant contends that the Respondent has registered the disputed domain name <mittalsteelostrava.com> and is using it in bad faith.

B. Respondent

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

6. Discussion and Findings

6.1. Preliminary Issue: Language of the Proceeding

The Complaint was filed in English, while the Complainant admits that the language of the Registration Agreement is Japanese to the best of the Complainant's knowledge. The Registrar has confirmed that the language of the Registration Agreement for the disputed domain name is Japanese.

On June 9, 2023, the Center transmitted an email communication to the Parties in English and Japanese regarding the language of the proceeding. On June 12, 2023, the Complainant submitted a request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

Considering the following circumstances, the Panel, exercising its authority to determine the language of the proceeding under paragraph 11(a) of the Rules, has decided English as the language of the proceeding:

- the Complaint was filed in English;
- the Complainant is a company in Luxembourg, and represented by a French law firm;
- the Respondent's address is in China;
- the Complainant has submitted its request that English be the language of the proceeding, but the Respondent did not comment on the language of the proceeding;
- the Respondent did not reply to the Complainant's contentions in any manner; and
- ordering the translation of the Complaint would only result in extra delay of the proceeding and additional cost for the Complainant.

6.2. Substantive Issues

A. Identical or Confusingly Similar

The first element functions primarily as a standing requirement. In this case, the disputed domain name consists of "mittalsteel", "ostrava", and the gTLD ".com". The Complainant has a European Union Trade Mark registration for the trademark MITTAL STEEL, which is incorporated into the disputed domain name in its entirety with omission of the space between "MITTAL" and "STEEL". The Omission of the space does not affect the finding of confusing similarity.

"Ostrava" is a geographical name, and addition of a geographical name to a trademark does not avoid finding of confusion similarity where the trademark is recognizable within the disputed domain name.

It is well-established that the gTLD ".com" is not relevant in the appreciation of confusing similarity.

Accordingly, paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

The Respondent's name is in no way similar to the disputed domain name, nor is it similar to the Complainant's trademark MITTAL STEEL. In addition, because the Respondent's address is in China, and Ostrava is a geographical name in the Czech Republic, it is inconceivable that the Respondent has been commonly known by the disputed domain name.

The disputed domain name is inactive, and the Respondent did not reply to the Complainant's contentions. Had the Respondent intended and prepared to use the disputed domain name in connection with a *bona fide* offering of goods or services, or a legitimate noncommercial or fair purpose, the Respondent should have replied to the Complaint. Therefore, inactiveness of the disputed domain name and failure by the Respondent to reply to the Complainant's contentions and provide relevant evidence lead the Panel to conclude that the Respondent did not intend to use the disputed domain name either in connection with a

bona fide offering of goods or services, or for noncommercial or fair purpose.

Therefore, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

Accordingly, paragraph 4(a)(ii) of the Policy is satisfied.

C. Registered and Used in Bad Faith

The Complainant is a well-known company, and its European trademark registration of MITTALSTEEL was registered in 2005, well before the disputed domain name was registered in June 2023. Therefore, it is inconceivable that the Respondent did not know the Complainant and its trademark when it registered the disputed domain name.

Furthermore, the addition of the geographical name “Ostrava” shows that the Respondent targeted the Complainant at the time of registration. The Complainant owned a subsidiary called “Arcelormittal Ostrava” in the Czech Republic until 2019. It was called “Mittal Steel Ostrava” between 2004 and 2007. Without knowledge of the history of the Complainant’s business, there should have been no reason to combine the Complainant’s trademark METTAL STEEL with the geographical name “Ostrava”.

Therefore, the Panel concludes that the disputed domain name has been registered in bad faith.

Moreover, for the following reasons, the Panel further finds that “passive holding” or non-use of the disputed domain name supports a finding of bad faith use in this case.

First, the Complainant is a well-known company, and its trademark is widely recognized as representing the goodwill of the Complainant. Second, the Respondent has failed to submit a response or to provide any evidence of actual or contemplated good-faith use. Third, the Respondent has concealed its identity in registering the disputed domain name. Finally, under the circumstances of the case, there would be no plausible good faith use to which the disputed domain name might be put.

Therefore, the Panel concludes that the disputed domain name is being used in bad faith.

Accordingly, paragraph 4(a)(iii) of the Policy is satisfied.

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, <mittalsteelostrava.com> be transferred to the Complainant.

/Keiji Kondo/

Keiji Kondo

Sole Panelist

Date: August 7, 2023