

ADMINISTRATIVE PANEL DECISION

Arcelormittal v. Giselle Perez, Epsilon Comunicacion SL
Case No. D2023-3571

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 <acelormittalx.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 24, 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. Also on August 24, 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 31, 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 September 1, 2023.

The Center sent an email communication in English and Spanish to the parties on August 31, 2023, regarding the language of the proceeding, as the Complaint has been submitted in English and the language of the registration agreement for the disputed domain name is Spanish. The Complainant submitted a request for English to be the language of the proceeding on September 1, 2023. 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 of the Complaint, and the proceedings commenced on September 6, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 26, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 27, 2023.

The Center appointed Gustavo Patricio Giay as the sole panelist in this matter on October 2, 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 leading steel and mining company, established in 2006 upon a merger between Arcelor and Mittal Steel. Also, the Complainant asserts its leadership in the steel industry for applications in automobiles, construction, household appliances, and packaging, having produced 59 million tons of crude steel in 2022.

The Complainant is the owner of the International trademark ARCELORMITTAL, which was registered on August 3, 2007, under the Reg. No. 947686, covering the following jurisdictions: Australia, Bonaire, Sint Eustatius and Saba, Curaçao, European Union, Georgia, Iceland, Japan, Republic of Korea, Norway, Singapore, Sint Maarten (Dutch part), Syrian Arab Republic, Türkiye, United States of America, Uzbekistan, Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Belarus, Switzerland, China, Cuba, Algeria, Egypt, Croatia, Iran (Islamic Republic of), Kenya, Kyrgyzstan, Democratic People's Republic of Korea, Kazakhstan, Liberia, Morocco, Monaco, Republic of Moldova, Montenegro, Republic of North Macedonia, Mongolia, Serbia, Russian Federation, Sudan, San Marino, Tajikistan, Ukraine, Viet Nam (as per Annex 4).

The Complainant claims to own an important domain names portfolio, including, among others, its primary website "arcelormittal.com" registered since January 27, 2006 (as per its Annex 5).

Lastly, the disputed domain name was registered on August 17, 2023. and resolves to a parking page, with active mail servers (MX servers).

5. Language of the Proceeding:

Pursuant to paragraph 11 of the Rules, unless otherwise agreed by the parties, the default language of the proceeding is the language of the registration agreement, subject to the authority of the panel to determine otherwise.

As indicated above, the Center has informed the parties that the language of the registration agreement for the disputed domain name is Spanish. Nevertheless, the Complainant has filed the Complaint in English and has confirmed its request for the language of the proceeding to be English.

The Respondent did not oppose the Complainant's language request when asked by the Center to comment thereon.

Noting the aim of conducting the proceedings with due expedition, paragraph 10 of the Rules vests a panel with authority to conduct the proceedings in a manner it considers appropriate while also ensuring both that the parties are treated with equality and, that each party is given a fair opportunity to present its case.

The Panel finds that ordering the Complainant to translate the Complaint, in view of the costs involved, would imply a significant burden to the Complainant, in addition to an unwarranted delay in the proceeding.

Noting also that the Respondent failed to answer the Complaint, and did not oppose the Complainant's language request when it was given the opportunity do so (both transmitted to the Respondent in English and Spanish), the Panel decides that the language of the proceeding shall be English.

6. Parties' Contentions

A. Complainant

The Complainant states that the disputed domain name is confusingly similar to its trademark ARCELORMITTAL on which the Complainant has prior rights.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that it is not related in any way with the Complainant. The Complainant has not established any activity and/or business with the Respondent.

More specifically, the Complainant alleged that the Respondent is passively holding the disputed domain name, which also is associated with MX servers.

Finally, the Complainant requests the Administrative Panel appointed in this administrative proceeding that the disputed domain name be transferred to the Complainant.

B. Respondent

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

7. Discussion and Findings

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain name, the Complainant must prove each of the following, namely that:

- (i) the disputed domain name is identical or confusingly similar with a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interest in respect of the disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has trademark rights in the ARCELORMITTAL mark by virtue of various trademark registrations.

As set forth in section 1.7 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") the standing test for confusing similarity involves a reasoned but relatively straightforward comparison between the trademark and the disputed domain name to determine whether the disputed domain name is confusingly similar with the trademark. The test 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 Panel considers that the disputed domain name <acelormittalx.com> is confusingly similar to the Complainant's trademark ARCELORMITTAL. The typosquatting practice of deleting a letter "r" and adding the letter "x" does not prevent this Panel to conclude that the disputed domain name is confusingly similar to the Complainant's trademark. See section 1.9 of the [WIPO Overview 3.0](#).

Moreover, the “.com” generic Top-Level Domain (“gTLD”) is viewed as a standard registration requirement and is generally disregarded under the first element of the confusing similarity test, as set forth in section 1.11.1 of [WIPO Overview 3.0](#).

Based on the above, the Panel finds that the disputed domain name is confusingly similar to the trademark ARCELORMITTAL on which the Complainant has rights and that the requirements of paragraph 4(a)(i) of the Policy are fulfilled.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, a respondent may establish rights to or legitimate interests in a domain name by demonstrating any of the following non-exclusive defenses:

- (i) before any notice to it of the dispute, the respondent’s use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent has been commonly known by the domain name, even if it has acquired no trademark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain, to misleadingly divert consumers.

Although the Policy addresses ways in which a respondent may demonstrate rights or legitimate interests in a disputed domain name, it is well established that a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the domain name (section 2.1 of [WIPO Overview 3.0](#)). Once such *prima facie* case is made, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name and if the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element (see *Do The Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#); *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#)).

The Complainant argues that (i) the Respondent is not related in any way to the Complainant; (ii) the Complainant has not authorized, licensed, or permitted the Respondent to register or use the disputed domain name or to use the ARCELORMITTAL trademarks. Even more, there is no other evidence in the file suggesting that the Respondent has or could have rights or legitimate interests in the disputed domain name.

Additionally, as further discussed in Section C, the Respondent is passively holding the disputed domain name by redirecting users to a parking page and, therefore, given the circumstances, this Panel considers that the Respondent is not making any legitimate noncommercial or fair use of disputed domain name.

Given these circumstances, the Panel finds that the Complainant has made out a *prima facie* case. Having made such *prima facie* case, the burden of production then shifted to the Respondent to refute the Complainant’s assertion or to demonstrate *bona fide* use of the disputed domain name. The Respondent has not submitted a reply, and the Panel is unable to consider any reasonable basis upon which the Respondent could sensibly be said to have any rights or legitimate interests in respect of the disputed domain name (see *Telstra Corporation Ltd. v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

The Panel therefore finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name and that the requirements of paragraph 4(a)(ii) of the Policy have been fulfilled.

C. Registered and Used in Bad Faith

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

In this connection, the Complainant has submitted evidence to support that the trademark ARCELORMITTAL mentioned in paragraph 4 above is widely known and was registered and used many years before the Respondent registered the disputed domain name. It is likely that the Respondent registered the disputed domain name containing a misspelling version of the Complainant's trademark ARCELORMITTAL, to generate confusion among the Internet users and benefit from the Complainant's reputation. 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.

Besides, the Complainant proved that MX records have been set up for the disputed domain name, which would enable the Respondent to send emails under the disputed domain name that is confusingly similar to the Complainant's mark, such as phishing emails. This underscores the Respondent's bad faith in both registering and utilizing the disputed domain name (See *Tetra Laval Holdings & Finance S.A. v. Himali Hewage*, WIPO Case No. [D2020-0472](#)).

At the same time, the fact that the disputed domain resolves to a parking page, does not prevent a finding of bad faith under the doctrine of passive holding noting the typosquatted nature of the disputed domain name and the implausibility of any good faith use to which the disputed domain name may be put (See also *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

Lastly, the Panel has made some limited factual research on the Respondent (section 4.8 of [WIPO Overview 3.0.](#)), and found that the Respondent was involved in another UDRP case filed by the Complainant (*Arcelormittal v. Giselle Perez, Epsilon Comunicacion SL*, WIPO Case No. [D2023-3300](#)), where the Respondent was found to have registered a domain name containing misspelled version of the Complainant's trademark. Thus, the Respondent has already engaged in a similar conduct in the past, which supports Panel's finding of bad faith in this case.

In view of the above given reasons, the Panel finds that the Respondent has registered and used the disputed domain name in bad faith.

8. 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, <acelormittalx.com> be transferred to the Complainant.

/Gustavo Patricio Giay/

Gustavo Patricio Giay

Sole Panelist

Date: October 16, 2023