

## ADMINISTRATIVE PANEL DECISION

Arcelormittal v. 于青青 (yu qing qing)

Case No. D2023-4651

### 1. The Parties

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

Respondent is 于青青 (yu qing qing), China.

### 2. The Domain Name and Registrar

The disputed domain name <arcelor.online> is registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) (the “Registrar”).

### 3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on November 16, 2023. On November 16, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 17, 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 (yu qing qing) and contact information in the Complaint. The Center sent an email communication to Complainant on November 17, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint in English on November 21, 2023.

On November 17, 2023, the Center informed the Parties in Chinese and English, that the language of the registration agreement for the disputed domain name is Chinese. On November 17, 2023, Complainant requested English to be the language of the proceeding. Respondent objected to Complainant’s request.

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 Respondent in English and Chinese of the Complaint, and the proceedings commenced on November 28, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 18, 2023. Respondent sent an email communication to the Center on November 17, 2023.

The Center appointed Yijun Tian as the sole panelist in this matter on January 5, 2024. 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**

##### **A. Complainant**

Complainant, Arcelormittal, is a company incorporated in Luxembourg. It is one of the world's largest steel producers, leading the market in automotive, construction, household appliances, and packaging. In 2022, it manufactured 59 million tons of crude steel, backed by substantial raw material supplies and extensive distribution networks (Annex 3 to the Complaint).

Complainant has rights in the ARCELOR marks. Complainant is the owner of numerous ARCELOR trademarks worldwide, including the International trademark registration for ARCELOR, registered on February 25, 2002 (registration number: 778212).

Complainant also operates domain name that contains the ARCELOR mark in its entirety, such as <arcelor.com> (registered on August 29, 2001), which is the official website of Complainant (Annex 5 to the Complaint).

##### **B. Respondent**

Respondent is 于青青 (yu qing qing), China.

The disputed domain name was registered on November 14, 2023.

According to the Complaint and relevant evidence provided by Complainant, the disputed domain name was resolved to a "Dan.com" webpage where the disputed domain name is offered for sale for USD 1,450 (Annex 6 to the Complaint).

#### **5. Parties' Contentions**

##### **A. Complainant**

Complainant contends that the disputed domain name is identical to both Complainant's trademark and its associated domain name. The disputed domain name incorporates Complainant's trademark in its entirety. The mere addition of the generic Top-Level Domain ("gTLD") ".online" does not provide adequate distinction to negate the likelihood of confusion between the disputed domain name and the trademark ARCELOR.

Complainant contends that Respondent lacks rights or legitimate interests in the disputed domain name.

Complainant contends that the disputed domain name was registered and is being used in bad faith.

Complainant requests that the disputed domain name be transferred to it.

##### **B. Respondent**

Apart from Respondent's informal communication dated November 17, 2023, Respondent did not reply to Complainant's contentions.

## 6. Discussion and Findings

### 6.1. Language of the Proceeding

The language of the Registration Agreements for the disputed domain name 3rceloris Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

From the evidence presented on the record, no agreement appears to have been entered into between Complainant and Respondent to the effect that the language of the proceeding should be English. Complainant filed initially its Complaint and amended Complaint in English, and has requested that English be the language of the proceeding for the following reasons:

- (a) The choice of English as the language for the Complaint is influenced by its widespread use in international relations and as one of the working languages of the Center.
- (b) The disputed domain name is in Roman characters (ASCII), not in Chinese script.
- (c) Opting for Chinese proceedings would have incurred a significant translation cost for Complainant, surpassing the overall cost of the case.
- (d) Despite the Complaint being in English, the Center communicated with Respondent in both English and Chinese, ensuring the opportunity for Respondent to engage in Chinese if preferred.
- (e) The Complaint is written in English for a better understanding of the Parties.

Respondent objected to Complainant's request. Respondent sent an email on November 17, 2023, and requested that Chinese be the language of the proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

On the record, Respondent appears to be located in China and thus presumably not a native English speaker, but considering the following aspects, the Panel has decided that the language of the proceeding shall be English: (a) the disputed domain name is registered in Latin characters 3rcelorrather than Chinese script; (b) the gTLD of the disputed domain name is ".online", so the disputed domain name seems to be prepared for Internet users worldwide, particularly English speaking countries; (c) the webpages which the disputed domain name currently resolves to are in the English language, which contained English words, such as "Seller's notes about Arcelor.online" and "Limited Time: Arcelor.online - Own it for \$1,450 Until January 31!" which demonstrates that the Respondent is able to understand English; and (d) the Center notified Respondent in both Chinese and English of the Complaint, and informed Respondent that it would accept a response in either English or Chinese, but Respondent chose not to file any response.

Having considered all the matters above, the Panel does not find it procedurally efficient to have Complainant translate the Complaint into Chinese and determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

## 6.2. Substantive Issues: Three Elements

### A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between Complainant's trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the ARCELOR mark is reproduced within the disputed domain name. More specifically, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the gTLD, ".online", is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.. [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, the Panel finds the first element of the Policy has been established.

### B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

More specifically,

(i) there has been no evidence adduced to show that Respondent used the disputed domain name in connection with a bona fide offering of goods or services. Respondent has not provided evidence of reasons to justify the choice of the terms "arcelor", Complainant's ARCELOR trademark, in the disputed domain name. There has been no evidence to show that Complainant has licensed or otherwise permitted Respondent to use the ARCELOR or to apply for or use any domain name incorporating the ARCELOR marks;

(ii) there has been no evidence adduced to show that Respondent has been commonly known by the disputed domain name. There has been no evidence adduced to show that Respondent has any registered trademark rights with respect to the disputed domain name. Respondent registered the disputed domain name in 2023, after the ARCELOR marks became widely known. The disputed domain name is identical to Complainant's ARCELOR marks; and

(iii) there has been no evidence adduced to show that Respondent was making a legitimate noncommercial or fair use of the disputed domain name. By contrast, the disputed domain name resolved to a “Dan.com” webpage where the disputed domain name is offered for sale for USD 1,450. Such use is not a bona fide offering of goods or services and rather evidences of bad faith. [WIPO Overview 3.0](#), section 2.9.

Based on the available record, the Panel finds the second element of the Policy has been established.

### **C. Registered and Used in Bad Faith**

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that Respondent has registered and used the disputed domain name in bad faith.

Based on the information provided by Complainant, the Panel finds that Complainant has a widespread reputation in the ARCELOR marks with regard to its products and services. It is not conceivable that Respondent would not have had Complainant’s trademark in mind at the time of the registration of the disputed domain name (in 2023). This is further reinforced by the fact that the disputed domain name incorporates Complainant’s ARCELOR trademark in its entirety.

The disputed domain name has resolved to “Dan.com” webpage parking for sale at the price of USD 1,450. The Panel finds that Respondent has most likely registered the disputed domain name primarily for the purpose of selling, for valuable consideration in excess of Respondent’s documented out-of-pocket costs directly related to the disputed domain name which constitutes bad registration and use of the disputed domain name. Paragraph 4(b)(i) of the Policy, and [WIPO Overview 3.0](#), section 3.1.1.

Based on the available record, the Panel finds that the disputed domain name was registered and is being used in bad faith within the meaning of paragraph 4(a)(iii) of the Policy. The third element of the Policy has been established.

### **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 <arcelor.online> be transferred to Complainant.

*/Yijun Tian/*

**Yijun Tian**

Sole Panelist

Date: January 30, 2024