

ADMINISTRATIVE PANEL DECISION

Arcelormittal v. philoogo Subzero, fream Ceramic
Case No. D2023-4826

1. The Parties

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

The Respondent is philoogo Subzero, fream Ceramic, France.

2. The Domain Name and Registrar

The disputed domain name <armcelormittal.com> is registered with PSI-USA, Inc. dba Domain Robot (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 21, 2023. On November 21, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 22, 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 November 22, 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 November 29, 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 November 30, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 20, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 22, 2023.

The Center appointed Kathryn Lee as the sole panelist in this matter on December 28, 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 multinational steel manufacturing corporation based in Luxembourg. The Complainant has steel manufacturing facilities in 16 countries with around 154,000 employees worldwide, and customers in 155 countries. In 2022, the Complainant mined 45.3 million tons of iron ore, and made 59 million tons of crude steel. The Complainant is the owner of International Trademark Registration Number 947686 for ARCELORMITTAL registered on August 3, 2007.

The Respondent appears to be an individual with an address in France.

The disputed domain name was registered on November 16, 2023, and does not resolve to any active website.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

First, the Complainant contends that the disputed domain name is confusingly similar to the mark in which the Complainant has rights. The Complainant states that the disputed domain name only has a slight spelling variation from the Complainant's mark, and that the addition of the letter "m" is characteristic of a typosquatting practice intending to create confusing similarity between the Complainant's mark and the disputed domain name.

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name and confirms that it has not authorized or licensed rights to the Respondent in any respect.

Finally, the Complainant contends that the disputed domain name was registered and used in bad faith. The Complainant contends that given the fame and distinctiveness of the Complainant's mark, it is reasonable to infer that the Respondent registered the disputed domain name with full knowledge of the Complainant's mark. The Complainant also contends that the misspelling of the Complainant's mark was intentional. Further, the Complainant contends that although there is no activity in connection with the disputed domain name, passive holding of a domain name incorporating a famous mark may be evidence of bad faith registration and use.

B. Respondent

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

6. Discussion and Findings

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 the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

Based on the available record, the Panel finds the 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 mark is recognizable within the disputed domain name. The disputed domain name is identical to the Complainant's mark other than the additional letter "m", and as the additional letter is embedded within the middle of the disputed domain name, which is otherwise identical to the Complainant's mark, the disputed domain name is confusingly similar to the Complainant's mark when viewed in a side-by-side comparison. Also, previous UDRP panels have concluded that a domain name that merely adds a letter to a famous mark constitutes typosquatting and does not change the visual similarity between the disputed domain name and the complainant's mark (*Philip Morris USA Inc. v. Luca Brignoli*, WIPO Case No. [D2014-1180](#) (<marlborom.com>), *Accenture Global Servs. Ltd. v. Kranthi Kumar K*, WIPO Case No. [D2019-1073](#) (<acceanture.com>), and *Lennar Pacific Properties Management, Inc., Lennar Corp. v. Bayerl Alice*, WIPO Case No. [D2020-1424](#) (<llennar.org>). Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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 the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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 available record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the 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.

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 the Respondent likely knew of the Complainant and the Complainant's trademark when registering the disputed domain name. Given the well-known status of the Complainant's mark, and that the disputed domain name reproduces the Complainant's mark exactly with the additional letter as the only difference, it is difficult to conceive of a situation in which the Respondent registered the disputed domain name simply by chance. Further, a simple Internet search would have yielded numerous results on the Complainant. Besides, the Respondent has not provided any explanation for having registered the disputed domain name, and with no response to claim otherwise, the Panel finds that it is more probable that the Respondent learned of the availability of the disputed domain name and registered it in order to take unfair advantage of the similarity with the Complainant's mark, creating a likelihood of confusion with the Complainant's mark.

The Panel notes that the disputed domain name does not resolve to any active websites.

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness and reputation of the Complainant's trademark, the typosquatting nature of the disputed domain name, and the lack of any response from the Respondent, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Based on the available record, the Panel finds that the Complainant has established the third element of the Policy.

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 <armcelormittal.com> be transferred to the Complainant.

/Kathryn Lee/

Kathryn Lee

Sole Panelist

Date: January 11, 2024