

## ADMINISTRATIVE PANEL DECISION

Arcelormittal v. 姚建宇 (Jian Yu Yao)

Case No. D2024-0197

### 1. The Parties

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

The Respondent is 姚建宇 (Jian Yu Yao), China.

### 2. The Domain Name and Registrar

The disputed domain name <arcelorsteelgroup.com> is registered with Chengdu West Dimension Digital Technology Co., Ltd. (the “Registrar”).

### 3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on January 17, 2024. On January 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 19, 2024, 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 (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 19, 2024, 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 January 19, 2024.

On January 19, 2024, the Center informed the parties in Chinese and English, that the language of the registration agreement for the disputed domain name is Chinese. On January 19, 2024, the Complainant requested English to be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

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 Chinese of the Complaint, and the proceedings commenced on January 29, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 18, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 19, 2024.

The Center appointed Francine Tan as the sole panelist in this matter on February 23, 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**

The Complainant states that it is one of the largest steel-producing companies in the world and is the market leader in steel for use in automotive, construction, household appliances and packaging, with 59 million tons of crude steel made in 2022. It holds sizeable captive supplies of raw materials and operates extensive distribution networks. It has over 150,000 employees across many countries and customers from about 155 countries.

The Complainant is the registered owner of International trade mark No. 778212 for ARCELOR, registered on February 25, 2002. The International registration is based on Benelux trademark registration No. 700209 filed on August 31, 2001.

The Complainant owns domain names such as <arcelor.com> and <arcelormittal-group.com>, registered since August 29, 2001, and June 26, 2006, respectively.

The disputed domain name was registered on January 15, 2024, and resolves to an inactive webpage.

#### **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.

In particular, the Complainant contends that:

- 1) The disputed domain name is confusingly similar to the ARCELOR trade mark in which the Complainant has rights. The disputed domain name incorporates the entirety of the Complainant's ARCELOR trade mark with the addition of the generic terms "steel" and "group". These additional terms do not change the overall impression of the designation as being connected to the Complainant's ARCELOR trade mark.
- 2) The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is not commonly known by the name "Arcelor". The Respondent is not affiliated with or authorized by the Complainant in any way. The Complainant has not licensed or authorized the Respondent to use the Complainant's ARCELOR trade mark in anyway, including registering the disputed domain name. The Complainant does not carry out any activity for, nor does it have any business relationship with the Respondent. The Respondent is not utilizing the disputed domain name with any bona fide offering of goods and/or services, and the disputed domain name serves no purpose other than to create a likelihood of confusion with the Complainant and its trade mark.

- 3) The disputed domain name was registered and is being used in bad faith. The Complainant's trade mark is distinctive and widely known. Given the distinctiveness and reputation of the Complainant's trade mark, it can be inferred that the Respondent was fully aware of the Complainant's trade mark before registering the disputed domain name. Further, the disputed domain name resolves to an inactive webpage, and there is no evidence of any activity by the Respondent in respect of the disputed domain name. It is not possible to conceive any plausible, actual or contemplated use of the disputed domain name by the Respondent that would not be illegitimate. The fact that the disputed domain name is inactive, and yet has been set up with MX records, suggests that it may be actively used for email purposes.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1 Procedural Issue - Language of the Proceeding**

The language of the Registration Agreement for the disputed domain name is 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.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, namely:

- (i) The disputed domain name consists of words in Latin characters and not in the Chinese script.
- (ii) English is the language most widely used in international relations and is one of the working languages of the Center.
- (iii) Requiring the Complainant to translate the Complaint and all supporting documents into Chinese would cause added expenses which are likely to be higher than the overall cost of this proceeding. This would impose a significant burden on the Complainant when compared with the low cost of the administrative proceeding.

The Respondent did not respond on the issue of 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).

The disputed domain name contains words which are in English, i.e., "steel" and "group". This strongly suggests that the Respondent is familiar with the English language. The Respondent did not submit any response or indicate reasons for why the proceeding should take place in Chinese; nor did he even offer to submit his Response in Chinese.

With due consideration of these circumstances, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English. It would not be expedient for the proceeding to be delayed nor for the additional translation expenses to be incurred by the Complainant in the circumstances of this case.

## **6.2 Substantive Issues**

### **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 3.0](#), section 1.7.

The Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. The addition of the terms "steel" and "group" does not prevent a finding of confusing similarity with the Complainant's trade mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8. Accordingly, the Panel finds that the disputed domain name is confusingly similar to the Complainant's ARCELOR trade mark.

The Panel concludes that the first element of the Policy has been established.

### **B. Rights or Legitimate Interests**

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 case and has not come forward with any relevant evidence demonstrating he has rights or legitimate interests in the disputed domain name. There is no evidence that the Respondent is commonly known by the disputed domain name. The Respondent was not licensed or authorized by the Complainant to use the latter's ARCELOR trade mark or to register a domain name incorporating the trade mark. The disputed domain name resolves to an inactive webpage, and there is no evidence that the Respondent is using or preparing to use it for any legitimate noncommercial or fair use, without intent for commercial gain. Further, the fact that the Respondent did not file a response is indicative that he does not have any rights or legitimate interests in the disputed domain name.

Furthermore, the Panel notes the composition of the disputed domain name carries a risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

The Panel concludes that 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 disputed domain name incorporates the entirety of the Complainant's distinctive ARCELOR trade mark with the addition of the generic terms, "steel" and "group", and it resolves to an inactive webpage. The Complainant's ARCELOR mark has been registered for many years. Given that length of time of registration and the distinctiveness of the Complainant's ARCELOR mark, and the addition of terms which are related to the Complainant's industry, the Panel finds that the Respondent more likely than not, would have known of the Complainant and its ARCELOR mark at the time he registered the disputed domain name. The fact that the MX records of the disputed domain name have been set up suggests that the Respondent may attempt to impersonate the Complainant or to use the email for phishing or other fraudulent purposes.

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, and (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness of the Complainant's trade mark and the composition of the disputed domain name. The Panel is persuaded 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.

The Panel concludes 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 <arcelorsteelgroup.com> be transferred to the Complainant.

*/Francine Tan/*

**Francine Tan**

Sole Panelist

Date: March 7, 2024