

ADMINISTRATIVE PANEL DECISION

Arcelormittal v. Eric Philipson

Case No. D2024-0941

1. The Parties

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

The Respondent is Eric Philipson, Germany.

2. The Domain Name and Registrar

The disputed domain name <arcelormittal-projects.com> is registered with GMO Internet, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 4, 2024. On March 4, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 5, 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 March 5, 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 a Complaint on March 5, 2024.

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 March 13, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 2, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 5, 2024.

The Center appointed Delia-Mihaela Belciu as the sole panelist in this matter on April 9, 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 is a world steel producing company. The Complainant is the market leader in steel for use in automotive, construction, household appliances and packaging with 59 million tons crude steel made in 2022. It holds sizeable captive supplies of raw materials and operates extensive distribution networks.

The Complainant is the owner of the International trademark registration No. 947686 for ARCELORMITTAL, registered on August 3, 2007, for goods and services in classes 6, 7, 9, 12, 19, 21, 39, 40, 41, 42, protected in several territories, including the European Union.

The Complainant owns also several domain names, such as the domain name <arcelormittal.com>, registered since January 27, 2006.

The disputed domain name <arcelormittal-projects.com> was registered on February 11, 2024, and resolves to an inactive webpage. According to the evidence available in the file, Mail Exchange ("MX servers") are configured in relation to the disputed domain name.

5. Parties' Contentions

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

Notably, the Complainant contends that:

(i) the disputed domain name is confusingly similar to the Complainant's ARCELORMITTAL mark as it contains the ARCELORMITTAL trademark identically, with the addition of the term "projects", which is not sufficient to escape the finding that the disputed domain name is confusingly similar to the Complainant's trademark ARCELORMITTAL;

(ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name for a number of reasons, among which that, (1) the Respondent is not identified in the WhoIs database as the disputed domain name, (2) the Respondent 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. In addition, the Respondent is not affiliated with the Complainant, nor has the Complainant's authorization to use the mark ARCELORMITTAL, (3) the disputed domain name resolves to an inactive webpage. The Complainant contends that the Respondent did not use the disputed domain name nor has a demonstrable plan to use the disputed domain name in connection with a bona fide offering of goods or services;

(iii) the disputed domain name was registered and is being used in bad faith for a number of reasons, among which that, (1) the Complainant's trademark ARCELORMITTAL is widely known. Given the distinctiveness of the Complainant's trademark and reputation, in the Complainant's view, the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademark, (2) the disputed domain name resolves to an inactive webpage. 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 domain name by the Respondent that would not be illegitimate, such as by being a passing off, or an infringement of the Complainant's rights under trademark law, (3) MX servers are configured in relation to the disputed domain name which suggests in the Complainant's view that, the disputed domain name may be actively used for email purposes.

B. Respondent

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

6. Discussion and Findings

In order for the Complainant to succeed, such must prove, according to paragraph 4(a) of the Policy, that:

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

In case all three elements above have been fulfilled, the Panel is able to grant the remedy requested by the Complainant. Thus, the Panel will deal with each of the requirements in turn.

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 that 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 that the entirety of the ARCELORMITTAL mark is reproduced within the disputed domain name with the addition of a hyphen and the term "projects", which is not sufficient to escape the finding that the disputed domain name is confusingly similar to the Complainant's trademark ARCELORMITTAL. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, in this case "projects", may bear on assessment of the second and third elements, the Panel finds, as underlined above as well, that, the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

In what concerns the addition of the generic Top-Level Domain ("gTLD") ".com" in relation to the disputed domain name, such is viewed as a standard registration requirement, and is disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

The Panel finds the first element of the Policy has been established.

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.

Thus, based on the available evidence, the Respondent does not appear to be commonly known by the name “arcelormittal”, and is not affiliated with the Complainant, nor has Complainant’s authorization to use the ARCELORMITTAL mark.

Moreover, the disputed domain name resolves to an inactive webpage. In addition, according to the evidence available in the file, MX servers are configured in relation to the disputed domain name which might suggest that, the disputed domain name may be used for phishing purposes.

Furthermore, the composition of the disputed domain name, incorporating the Complainant’s ARCELORMITTAL mark with the addition of the descriptive term “projects”, might lead to confusion for Internet users and as such, carries a risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

All the above does not amount to a bona fide offering of goods or services, or to a legitimate noncommercial or fair use of the disputed domain name.

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 Complainant’s rights in the ARCELORMITTAL mark predate the registration date of the disputed domain name.

In light of the above as well as of the high distinctive character of the ARCELORMITTAL mark, the Panel finds that it is not conceivable that the Respondent registered the disputed domain name without knowledge of the Complainant’s ARCELORMITTAL mark, which supports a finding of bad faith registration. [WIPO Overview 3.0](#), section 3.2.2.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Panel notes that, the disputed domain name resolves to an inactive webpage, and that MX servers are configured in relation to the disputed domain name, which might suggest that, the disputed domain name may be used for phishing purposes. The disputed domain name incorporates in its entirety the Complainant’s high distinctive ARCELORMITTAL mark with the addition of the descriptive term “projects”, leading thus to confusion and misleading Internet users into believing that any email which might

be sent using the disputed domain name is sent by the Complainant or by an affiliated entity with the Complainant's consent.

UDRP 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 high distinctive character of the Complainant's ARCELORMITTAL trademark, the fact that the Respondent has not submitted any response to the Complaint and the composition of the disputed domain name, 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.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy and 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 <arcelormittal-projects.com> be transferred to the Complainant.

/Delia-Mihaela Belciu/
Delia-Mihaela Belciu
Sole Panelist
Date: April 23, 2024