

ADMINISTRATIVE PANEL DECISION

Arcelormittal v. patrick bonco
Case No. D2024-3040

1. The Parties

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

The Respondent is patrick bonco, Fiji.

2. The Domain Name and Registrar

The disputed domain name <arcelramittal.com> is registered with GMO Internet, Inc. d/b/a Discount-Domain.com and Onamae.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 25, 2024. On July 25, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 26, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 July 30, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 19, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 20, 2024.

The Center appointed Harini Narayanswamy as the sole panelist in this matter on August 26, 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 among the world's largest steel production businesses that operates under the trademark ARCELORMITTAL. The International trademark registration for the Complainant's ARCELORMITTAL (word) mark is registered under registration number 947686, dated August 3, 2007, in classes 6, 7, 9,12,19, 21, 39, 40, 41, and 42. The Complainant owns several domain names bearing its trademark including the domain name <arcelormittal.com>, which was registered on January 27, 2006.

The Respondent registered disputed domain name on July 23, 2024. The disputed domain name is not being used to host a website but resolves to a blank page with a message that states it is not reachable. The disputed domain name has Mail Exchange (MX) servers configured at the time the present Complaint was filed.

5. Parties' Contentions

A. Complainant

The main contentions made in the Compliant are as follows:

The Complainant contends that its mark ARCELORMITTAL is used extensively and has a worldwide reputation. In support of its contentions, the Complainant has cited UDRP decisions that have recognized the fame and reputation associated with its mark. The Complainant further states that it is the market leader for steel which is used in automotive, construction, household appliances, and packaging. The Complainant claims that it has made 58.1 million tons of crude steel in the year 2023 and holds a sizable supply of raw materials and also has an extensive distribution network.

The Complainant states that the disputed domain name is an obvious misspelling of its mark, where the letter "o" is replaced by the letter "a" and it amounts to typo squatting. The Complainant argues that the disputed domain name is confusingly similar to its mark. The Complainant argues that the Respondent lacks rights or legitimate interests in the disputed domain name, as the registration records identify the Respondent as Patrick Bonco who is not commonly known by the disputed domain name. Further, no license or authorization has been granted to the Respondent to use its mark and there is no evidence of demonstrable preparations to use the disputed domain name in connection with a bona fide offering of goods or services.

The Complainant argues that due to the well-known reputation of its mark, it is reasonable to infer that the Respondent ought to have known of the Complainant's rights in the mark. The Complainant further argues that a famous mark coupled with an inactive website indicates bad faith registration and use. As email servers are configured, the Complainant suggests that the disputed domain name is being used for email purposes. The Complainant states that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

The Policy under paragraph 4 (a) requires the Complainant to establish three elements to obtain the remedy of transfer of the disputed domain name under the Policy, these are:

(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 lacks rights or legitimate interests in the disputed domain name; and
- (iii) The disputed domain name was registered and is being used in bad faith by the respondent.

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.

The Complainant has provided evidence of its international trademark registration for the ARCELORMITTAL mark. 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 disputed domain name, as submitted by the Complainant, is a misspelling of the ARCELORMITTAL mark. The letters "or" in the mark are interchanged to "ra" in the disputed domain name. The Panel finds that the interchange of the letter "r" or replacing the letter "o" with the letter "a" does not impact or change the overall impression that the disputed domain name is confusingly similar to the Complainant's unique trademark.

A disputed domain name that consists of an misspelling of a trademark is considered confusingly similar for purposes of the Policy. See [WIPO Overview 3.0](#), section 1.9. The Panel finds the trademark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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 Respondent is not known by the disputed domain name or demonstrated any legitimate reason for the registration of the disputed domain name. The disputed domain name is not being used, therefore the question of it being used for bona fide purposes or for noncommercial fair use purposes does not arise.

The Panel notes that the Respondent lacks permission, authorization or license to use the Complainant's mark or any of its variants. The Respondent has therefore made unauthorized use of the Complainant's registered trademark in the disputed domain name which is not indicative of the Respondent rights or legitimate interests in the disputed domain name.

For the reasons discussed, 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 provided any relevant submissions or evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Panel finds the second element of the Policy has been established by the Complainant.

C. Registered and Used in Bad Faith

The third element under paragraph 4(a)(iii) of the Policy requires the Complainant to establish the disputed domain name has been registered and used in bad faith by the Respondent. The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy specifies circumstances, in particular, but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

- (i) Circumstances indicate that the respondent has registered or acquired the domain name primarily for purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of respondent's documented out-of-pocket costs directly related to the domain name; or
- (ii) The respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) By using the disputed domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to the respondent's website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation or endorsement of the respondent's website or location or of a product or service on the respondent's website or location.

The Complainant has argued that the registration and use of the disputed domain name shows the Respondent's intents to benefit from the reputation associated with its mark. The Respondent has not offered any justification for registration of the disputed domain name that contains a misspelled version of the Complainant's well reputed mark. Given that the Complainant's mark is well known and is unique and distinctive, the Respondent ought to have registered the disputed domain name with knowledge of the mark and deliberately opted to register it to take unfair advantage of reputation which constitutes bad faith.

The material on record show that the Respondent has not used the disputed domain name for legitimate purposes but has set up email servers, which coupled with its typosquatting nature may serve to indicate that there is a risk for disputed domain name may be used for purposes of sending and receiving email. The presence of email serves on the disputed domain name cannot be considered good faith use by the Respondent in these circumstances.

Given the Complainant's world-wide repute and fame, there cannot be any actual or contemplated good faith use of the disputed domain name which is a misspelling of the Complainant's mark. Furthermore, the existence of email servers poses a risk of phishing, any use of the email is likely to mislead users to think that they are dealing with the Complainant, see *Carrefour v. Contact Privacy Inc. Customer 0152812191/ Milen Radumilo, Milen Radumilo* WIPO Case No. [D2019-0670](#), and *Accor SA v. Domain Admin, C/O ID#10760, Privacy Protection Service INC d/b/a PrivacyProtec.org /Yogesh Bhardwaj*, WIPO Case No. [D2017-1225](#).

Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. This is particularly the case where the trademark in question is well-known and the facts and circumstances show that the respondent has shown no legitimate use for the disputed domain name. Having reviewed the available record, the Panel finds the entire set of circumstances described here squarely comes under the passive holding doctrine showing bad faith registration and use as envisaged under paragraph 4 (iii) of the Policy.

Although panelists will look at the totality of the circumstances in each case, factors that are 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. The Panel finds that the Complainant's arguments prevail under the circumstances of the case.

It has been consistently found by UDRP panels that registration of a confusingly similar domain name to a widely known or reputed trademark by someone who is not affiliated with the owner of the trademark and has not shown good reason for registration of the disputed domain name or its legitimate use, can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

The Panel finds for the reasons discussed, that the Complainant has established the third element of the Policy that the disputed domain name has been registered in bad faith and is being used in bad faith.

The Complainant has satisfied all three of the elements required under the Policy for a transfer of the disputed domain name.

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 <arcelramittal.com> be transferred to the Complainant.

/Harini Narayanswamy/

Harini Narayanswamy

Sole Panelist

Date: September 9, 2024