

ADMINISTRATIVE PANEL DECISION

ARCELORMITTAL v. ooo Arcelor-Kalgary

Case No. D2024-4221

1. The Parties

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

The Respondent is ooo Arcelor-Kalgary, Russian Federation.

2. The Domain Name and Registrar

The disputed domain name <arcelor-calgary.online> is registered with Registrar of Domain Names REG.RU LLC (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on October 14, 2024. On October 14, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 15, 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.

On October 15, 2024, the Center informed the Parties in Russian and English that the language of the registration agreement for the disputed domain name was Russian. On October 15, 2024, the Complainant requested English to be the language of the proceeding. On October 16, 2024, the Respondent sent to the Center an informal email message in English containing a request for Russian to be the language of the proceeding.

On October 16, 2024, the Complainant requested a suspension of the proceeding. On the same day, the Center notified the Parties that the proceeding was suspended for 30 days until November 16, 2024. On October 29, 2024, the Respondent sent an informal email message in English to the Center. On November 12, 2024, the Complainant requested the reinstatement of the proceeding. On the same day, the Center reinstated the proceeding.

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 in Russian and English of the Complaint, and the proceedings commenced on November 13, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 3, 2024. The Respondent did not submit any formal response. Accordingly, the Center notified the Parties on December 5, 2024, that it would proceed with Panel Appointment.

The Center appointed Assen Alexiev as the sole panelist in this matter on December 12, 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 the largest steel producing company in the world and is the market leader in steel for use in automotive, construction, household appliances and packaging with 58.1 million tons crude steel made in 2023.

The Complainant is the owner of the international trademark ARCELOR with registration No. 778212, registered on February 25, 2002, for goods and services in International Classes 1, 6, 7, 9, 12, 37, 40, and 42 in multiple jurisdictions, including the Russian Federation, where the Respondent is located (the "ARCELOR trademark").

The Complainant is also the owner of the domain name <arcelor.com>, registered on August 29, 2001.

The disputed domain name was registered on September 18, 2024. It is currently inactive and has mail exchange ("MX") settings enabled.

According to the Respondent, it is a company named "Arcelor-Calgary LLC" registered in the Russian Federation. There is no information or documents in the case file about the registration, the current status, and the activities of this company.

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.

The Complainant states that the disputed domain name is confusingly similar to its ARCELOR trademark, because it incorporates the trademark in its entirety. The addition of the geographical term "Calgary" (a city in Canada) does not change the impression that the disputed domain name is connected to the Complainant's trademark, but increases the risk of confusion as the combination refers to the Complainant's activities in Canada.

According to the Complainant, the Respondent has no rights or legitimate interests in respect of the disputed domain name, because there is no registered entity under the name "ooo Arcelor-Kalgary", and the Respondent has registered the disputed domain name under this name to reinforce the risk of confusion. The Complainant contends that the Respondent has no business with the Complainant and has not been authorized to use the Complainant's ARCELOR trademark or to register the disputed domain name.

The Complainant notes that the disputed domain name is inactive and maintains that the Respondent has no demonstrable plans to use it.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. It points out that its ARCELOR trademark is widely known and that most of the results of a Google search for the terms "Arcelor Calgary" refer to the Complainant and its ARCELOR trademark, and submits that the Respondent has registered the disputed domain name with full knowledge of this trademark. According to the Complainant, it is not possible to conceive of any plausible actual or contemplated active use of the disputed domain name by the Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant's rights under trademark law.

The Complainant adds that the disputed domain name has been set up with MX records, which suggests that it may be actively used for email purposes, and any email messages emanating from the disputed domain name could not have a good faith purpose.

B. Respondent

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

In its informal email communications to the Center, the Respondent made the following statements:

"This is Maria from Arcelor-Calgary LLC, company that is registered in Russia. I can confirm that domain arcelor-calgary.online is no longer available as it was created by REG.RU automatically and now deactivated as unnecessary. It was not active and was not used at any commercial or any other activity. I suppose it's satisfactory argument to close the case and consider the complaint as withdrawn.

Please confirm acceptance from Your side.

If not, please kindly acknowledge my request to settle Russian language as language of proceeding, the background for it determined by geographical principle as domain was created in Russia. English is not possible as there is no budget for administration proceeding translation at all, it is not achievable."

"Please note that there will be no signed settlement form from my side as I'm not participant of this proceeding, domain arcelor-calgary.online does not belong to me, I did not buy it and did not use. Please find attached print screen from reg.ru and exclude me from the correspondence."

The second message includes a print screen copy of what appears to be the control panel of the Respondent's account with the Registrar. The image contains information that the disputed domain name is currently registered and all operations with it are blocked.

6. Discussion and Findings

6.1. Procedural issue - Language of the proceeding

The language of the Registration Agreement for the disputed domain name is Russian. 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 requests that the language of the proceeding be English with the arguments that English is the language most widely used in international relations and is one of the working languages of the Center, that the disputed domain name is composed of words written in Latin script and not in Russian script, and that, in order to proceed in Russian, the Complainant would have to retain specialized translation services at a cost very likely to be higher than the overall cost of this proceeding, which would therefore impose a significant burden on the Complainant.

The Center has sent all its communications to the Parties in both English and Russian.

In its email communications to the Center, written in English, the Respondent requests that the language of the proceeding be Russian claiming that the disputed domain name was created in the Russian Federation and that it has no budget for translation in English. The Respondent however does not state that it was not able to understand the Complaint or any other communication to it in the connection with this proceeding. The Respondent also did not avail itself of the opportunity to submit a Response in the language of its choice within the time limit to do so.

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 Respondent's communications were made in English, which shows that it has good command of this language and should be able to understand the Complaint and prepare a Response to it. At the same time, requiring the Complainant to translate the Complaint and the attached evidence would increase the expenses and delay the proceeding.

Therefore, having considered all the matters above, the Panel decides under paragraph 11(a) of the Rules that the language of the proceeding will be English.

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 the ARCELOR trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the ARCELOR trademark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the ARCELOR trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms (here, "calgary") may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the ARCELOR trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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.

The Respondent does not claim having rights or legitimate interests in the disputed domain name and does not dispute the Complainant's statements and evidence. In its informal communications to the Center, the Respondent states that the disputed domain name was "created automatically" by the Registrar and has been "deactivated as unnecessary", and that the Respondent "did not buy it and did not use [it]". These statements contradict the verification response from the Registrar which confirms that the registration of the disputed domain name is active and that the Respondent is its registrant, and also contradict the print screen copy of the control panel of the Respondent's account with the Registrar, which displays information about the status of the disputed domain name and of the related services of the Registrar. The Respondent would only have access to such information if it was the registrant of the disputed domain name.

The Respondent claims that its company under the name "Arcelor-Calgary LLC" is registered in the Russian Federation, but does not submit any evidence or details about it. In any case, there is no information about such company in the Rusprofile database¹, so there is no basis to conclude that such company really exists. In view of the totality of the circumstances of this case, the use by the Respondent of this name rather appears to be an attempt to create an appearance that the disputed domain name reflects the name of its registrant.

Considering the above, the Panel finds that the Complainant's prima facie showing has not been rebutted.

The Panel therefore finds 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.

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.

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. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes a number of circumstances. The Complainant's ARCELOR trademark is distinctive and has gained significant reputation as a result of the Complainant's activities. The disputed domain name combines the Complainant's trademark with the geographic name of the city of Calgary in Canada, which makes it appear as an official online location of the Complainant for this location. The company name indicated by the Respondent for the purposes of the registration of the disputed domain name appears to be an attempt to create a false appearance of a connection between the two. The disputed domain name has MX records enabled, so it may be used for email communications, and Internet users receiving such communications may be misled as to their source, which represents an implied ongoing threat

¹ <https://www.rusprofile.ru/>; with reference to the Panel conducting independent research of publicly available sources, see the [WIPO Overview 3.0](#), section 4.8.

to the Complainant. The Respondent has not given any explanation as to why it has registered and how it intends to use the disputed domain name, but has made contradictory statements that appear as an attempt to evade responsibility for the registration and eventual use of the disputed domain name.

Taking all the above into account, the Panel 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.

The Panel therefore 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 <arcelor-calgary.online> be transferred to the Complainant.

/Assen Alexiev/

Assen Alexiev

Sole Panelist

Date: December 18, 2024