

ADMINISTRATIVE PANEL DECISION

Arcelormittal (SA) v. Ariah Watkins
Case No. D2022-4567

1. The Parties

The Complainant is Arcelormittal (SA), Luxembourg, represented by Nameshield, France.

The Respondent is Ariah Watkins, Germany.

2. The Domain Name and Registrar

The disputed domain name <cuadrosarcelormittal.com> is registered with Gransy, s.r.o. d/b/a subreg.cz (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 30, 2022. On December 1, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 2, 2022, 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 (Domain Admin, Whois protection, this company does not own this domain name s.r.o.) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 2, 2022 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 also on December 2, 2022.

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 December 5, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 25, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 28, 2022.

The Center appointed Anna Carabelli as the sole panelist in this matter on January 3, 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 major steel producer with approximately 158,000 employees, operations in more than 60 countries (including Germany where the Respondent reportedly resides), and more than 69 million tonnes crude steel made in 2021.

The Complainant is the owner of International trademark registration No. 947686 for ARCELORMITTAL, registered on August 3, 2007, and designated for protection in numerous jurisdictions, including the European Union.

The Complainant also owns numerous domain name registrations incorporating the ARCELORMITTAL mark, including <arcelormittal.com>, registered on January 27, 2006, and used with the Complainant's official website.

The disputed domain name was registered on November 28, 2022, according to the Registrar's Whois records. The evidence in the Complaint is that the disputed domain name resolves to a parking page of the Registrar.

5. Parties' Contentions

A. Complainant

The Complainant submits and contends that:

- The Complainant is the registered proprietor of the trademark ARCELORMITTAL which has acquired and enjoys a significant reputation and goodwill internationally.
- The disputed domain name is confusingly similar to the Complainant's registered trademark and company name. The addition of the generic term "cuadros" does not prevent a finding of confusing similarity.
- The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant has not authorized or somehow given consent to the Respondent to register and use the disputed domain name. The Respondent is not commonly known as the disputed domain name and is not using the disputed domain name in connection with a *bona fide* offering of goods and services.
- The disputed domain name was registered in bad faith. The Respondent must have known of the Complainant's mark ARCELORMITTAL when it registered the disputed domain name. The Complainant's mark is distinctive and well-known worldwide, as recognized by past UDRP panels.
- The disputed domain name is also used in bad faith. The disputed domain name resolves to a parking page and it is not possible to conceive any plausible actual or contemplated use by the Respondent that would not be illegitimate.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the Panel to decide the Complaint based on the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Under paragraph 4(a) of the Policy, the Complainant must prove each of the following:

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

Paragraph 4(b) of the Policy sets out four illustrative circumstances, which for the purposes of paragraph 4(a)(iii) of the Policy, shall be evidence of registration and use of a domain name in bad faith.

Paragraph 4(c) of the Policy sets out three illustrative circumstances any one of which, if proved by the Respondent, shall be evidence of the Respondent's rights to or legitimate interests in the disputed domain name for the purpose of paragraph 4(a)(ii) of the Policy above.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has established rights over the trademark ARCELORMITTAL based on the evidence submitted in the Complaint.

The disputed domain name consists of the Complainant's trademark ARCELORMITTAL with the addition of the term "cuadros", followed by the generic Top-Level Domain ("gTLD") ".com".

As highlighted in section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), the addition of a gTLD, such as ".com", is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test. Therefore, the relevant comparison to be made is with the second-level portion of the disputed domain name, *i.e.*, "cuadrosarcelormittal".

As highlighted in section 1.7 of the [WIPO Overview 3.0](#), the threshold test for confusing similarity typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.

The disputed domain name entirely incorporates the Complainant's mark ARCELORMITTAL and this is a sufficient element to establish confusing similarity, as held by previous UDRP panels (*e.g.*, *Banca Mediolanum S.p.A. v. Domains By Proxy, LLC / Marzia Chiarello*, WIPO Case No. [D2020-1955](#); *Virgin Enterprises Limited v. Domains By Proxy LLC, Domainsbyproxy.com / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-1923](#); *Patagonia, Inc. v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2019-1409](#)).

As recorded in section 1.8 of the [WIPO Overview 3.0](#), where the relevant trademark is recognizable within the disputed domain name, the addition of other terms does not prevent a finding of confusing similarity under the first element.

Accordingly, the Panel finds that disputed domain name is confusingly similar to a mark in which the Complainant has rights. Therefore, the Complainant has established paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(c) of the Policy, a respondent may demonstrate its rights or legitimate interests in a domain name by showing any of the following circumstances, in particular but without limitation:

- (i) before any notice to it of the dispute, its use of, or demonstrable preparation to use the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods and services;
- (ii) it has been commonly known by the domain name, even if it has acquired no trademark or service mark rights;
- (iii) it is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, based on the following: (a) the Complainant holds prior rights in the registered and well-known ARCELORMITTAL mark, (b) the Respondent has not been authorized to use the Complainant's mark in any way, and (c) the Respondent cannot demonstrate any legitimate noncommercial or fair use of the disputed domain name.

According to section 2.1 of the [WIPO Overview 3.0](#), while 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 often-impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

Here the Panel finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. By not submitting a response, the Respondent has failed to invoke any circumstance, which could have demonstrated any rights or legitimate interests in the disputed domain names under paragraph 4(c) of the Policy. There is no indication before the Panel of any activity in relation to the disputed domain name that would give rise to rights or legitimate interests in the Respondent.

Therefore, the Panel finds that the Complainant has established paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

According to paragraph 4(a)(iii) of the Policy, the Complainant must establish that the disputed domain name has been registered and is being used in bad faith.

The disputed domain name incorporates the Complainant's trademark and was registered long after the Complainant had registered and used the ARCELORMITTAL trademark and the domain name <arcelormittal.com>. Given the distinctiveness and well-established reputation of the Complainant's trademark, in all likelihood the Respondent could not ignore the Complainant's ARCELORMITTAL trademark at the time he registered the disputed domain name. Such fact suggests that the disputed domain name was registered in bad faith (see [WIPO Overview 3.0](#), section 3.2.2).

Concerning the use of the disputed domain name, the evidence submitted shows that the disputed domain name does not resolve to an active website of the Respondent, but rather a parking page of the Registrar.

The current use of the disputed domain name does not prevent a finding of bad faith under the doctrine of passive holding. As stressed by many previous UDRP decisions, “While 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, (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put.” (See section 3.3 of the [WIPO Overview 3.0](#); *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

Each of these considerations points to the Respondent’s passive holding of the disputed domain name being in bad faith. Specifically: (i) the Complainant’s trademark is distinctive and well-established; (ii) the Respondent has failed to submit a response to the Complaint or provide any evidence of good-faith use; (iii) the Respondent has registered the disputed domain name through a privacy service; and, (iv) there is no conceivable good faith use to which the disputed domain name, clearly incorporating the Complainant’s distinctive and coined mark, could be put by the Respondent.

For all the above reasons, the Panel finds that the disputed domain name was registered and is being used in bad faith by the Respondent.

Therefore, the Complainant has established also paragraph 4(a)(iii) 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 <cuadrosarcelormittal.com> be transferred to the Complainant.

/Anna Carabelli/

Anna Carabelli

Sole Panelist

Date: January 17, 2023