Panel Decision for dispute CAC-ADREU-008307

Case number	CAC-ADREU-008307
Time of filing	2022-06-02 18:21:11
Domain names	arcelormittal-co.eu

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	ArcelorMittal (SA)

Respondent

Organization	ArcelorMittal BE Group SSC AB

INSERT INFORMATION ABOUT OTHER LEGAL PROCEEDINGS THE PANEL IS AWARE OF WHICH ARE PENDING OR DECIDED AND WHICH RELATE TO THE DISPUTED DOMAIN NAME

The Panel is not aware of other pending or decided proceedings related to the disputed domain name.

FACTUAL BACKGROUND

The Complainant is a world leading steel and mining company established in Luxembourg with some 168.000 employees in 16 countries. In 2020 he produced 71,5 million tonnes of crude steel for customers in 160 countries.

He is the owner of the international trademark n° 947686 ARCELORMITTAL, registered on August 3, 2007 and of among others the domain name <ARCELORMITTAL.COM> registered in January 27, 2006.

The Respondent registered the domain name <ARCELORMITTAL-CO.EU> on January 27, 2022 under the name of "ArcelorMittal BE Group SSC AB, bill chill" while "ArcelorMittal BE Group SSC AB" is the name of a subsidiary of the Complainant established at the same address in Sweden. The email address of the Respondent is project.supervisor@aol.com and is not affiliated with the said subsidiary of the Complainant.

The Complainant filed a complaint on February 21, 2022 and has in accordance with Paragraph B1(b)(11) of the ADR Rules specified that the Panel appointed in this proceeding transfers the disputed domain name to the Complainant.

The Respondent has not confirmed receiving the notice of the ADR Proceeding of February 2, 2022 by accessing the online platform and was notified of his failure to comply with the deadline indicated in the notification of deficiencies in response on April 4, 2022.

A. COMPLAINANT

A. The Complainant claims that the disputed domain name is identical or confusingly similar to a trademark or service mark in which he has rights. He states that the disputed domain name is confusingly similar to the trademark ARCELORMITTAL®, since the name includes the trademark in its entirety.

B. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant does not carry out any activity for, nor has any business with the Respondent.

C. The disputed domain name was registered and is being used in bad faith. The Registrant used the name of Complainant‘s subsidiary “ArcelorMittal BE Group SSC AB” and its post address in order to create a likelihood of confusion.

B. RESPONDENT

The Respondent did not submit a response within 30 working days from the delivery of a notification nor did it later. Therefore, the Panel shall proceed to a decision on the complaint and may consider
this failure to comply as grounds to accept the claims of the other Party in accordance with Paragraph B10 (a) of the ADR Rules.

DISCUSSION AND FINDINGS

In accordance with Article 21(1) of Regulation 874/2004 a registered domain name is speculative or abusive where that name is identical or confusingly similar to a name in respect of which a right is recognized or established by national and/or Community law, such as the rights mentioned in Article 10(1), and where it:

a) has been registered by its holder without rights or legitimate interest in the name;
or
b) has been registered or is being used in bad faith.

The Complainant has provided sufficient evidence that he is the owner of the international trademark ARCELORMITTAL.

A. The disputed domain name ARCELORMITTAL-CO.EU incorporates the word ARCELORMITTAL in its entirety and only differs from the Complainant's trademark by the addition of the suffixes -co and .eu.

It is the consensus view among the panelists that for assessing identity or confusing similarity the .eu suffix has to be disregarded. Adding moreover the suffix -co merely suggests that ArcellorMittal is a company and only adds to the confusion with the Complainant's trademark.

See CAC case No. 6901, <fc-bayernmunchen.eu>: "The hyphen (...) and the abbreviation of the legal form of the German stock corporation "AG" are not relevant. The use of identical or similar terms cause a substantial likelihood of confusion".

Therefore, the Panel finds that the disputed domain name <ARCELORMITTAL-CO.EU> is highly similar to the trademarks registered on behalf of the Complainant well before its registration.

B. The Complainant contends that the Respondent is not affiliated with nor authorized by the Complainant in any way. Neither license nor authorization has been granted to the Respondent to make any use of the Complainant’s trademark ARCELORMITTAL®, nor to apply for registration of the disputed domain name by the Complainant. He therefore contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Complainant having established a prima facie case, in the absence of any response seeking to establish any of the factors set out in Article 21(2) of the Regulation (EC) No. 874/2004 of April 28, 2004, his assertions suffice to establish the absence of rights or legitimate interest in the disputed domain name on his part.

C. According to art. 21 (1) of the same Regulation the registration of a domain name is speculative or abusive where that name is identical or confusingly similar to a recognized trademark and where it has been registered or is being used in bad faith.

Bad faith may be demonstrated where circumstances indicate that the domain name was intentionally used to attract Internet users for commercial gain to the holder of a domain name website or other on-line location, by creating a likelihood of confusion with a name on which a right is recognized or established by national and/or Community law.

Requesting the registration of a domain name in the name and on the postal address of a third party not only constitutes a breach of contract in accordance with art. 3 of the Regulation, it is also the illegal impersonation of a business, generally known as corporate identity fraud. Adding a meaningless "big chill" to the name of the registrant and using an email address that is not affiliated with the name are circumstances that indicate that the domain name was intentionally registered to attract Internet users for commercial gain by creating a likelihood of confusion.

Unlike the Complainant contends, the disputed domain name was not used. In any case the registrant hardly could have used it since the Complainant filed a complaint within three weeks from the registration and the domain name was suspended by the Registry.. However, the purpose of the registration is clear, it is not necessary to prove both registration and use in bad faith; it is sufficient that evidence illustrates one of the two elements - in case of the registration - in order to comply with article 21 (1) of the PPR.

See also case 4645 (AIRFRANCEONLINE), where it was held that 'the registration of a domain name identical or confusingly similar to a famous trademark by a person with no verifiable right or legitimate interest in the name constitutes a strong presumption that the domain name was registered in bad faith'.

The Panel finds that the domain name has been registered in bad faith.

The Complainant, being a company registered under German law, satisfies the eligibility requirement for .eu domain name registrations pursuant to Article 4(2)(b)(ii) of Regulation (EC) No. 733/2002.
Therefore, the disputed domain name has according to the ADR Rules to be transferred as claimed.

DECISION

For all the foregoing reasons, in accordance with Paragraphs B12 (b) and (c) of the Rules, the Panel orders that the domain name <ARCELORMITTAL-CO.EU> be transferred to the Complainant.

PANELISTS

Name	**Herman Sobrie**

DATE OF PANEL DECISION 2022-05-13

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

I. Disputed domain name: <ARCELORMITTAL-CO.EU>

II. Country of the Complainant: Luxembourg, country of the Respondent: Sweden.

III. Date of registration of the domain name: August 3, 2007

IV. Rights relied on by the Complainant (Art. 21 (1) Regulation (EC) No 874/2004 on which the Panel based its decision: word trademark registered in BX, reg. No.824918 for the term 20 years, filed on May 25, 2007, registered on June 18, 2007 in respect of goods and services in classes 06, 07, 09, 12, 19, 21, 39, 40,41, 42.

V. Response submitted: No.

VI. Domain name is confusingly similar to the protected right of the Complainant

VII. Rights or legitimate interests of the Respondent (Art. 21 (2) Regulation (EC) No 874/2004):
1. No
2. Why: suffixes .eu and -co have to be disregarded and the Complainant has established a prima facie case.

VIII. Bad faith of the Respondent (Art. 21 (3) Regulation (EC) No 874/2004):
1. Yes
2. Why: circumstances indicate that the domain name was intentionally used to attract Internet users, for commercial gain,

IX. Other substantial facts the Panel considers relevant: No.

X. Dispute Result: Transfer of the disputed domain name.

XI. Procedural factors the Panel considers relevant: the Respondent’s failure to supply a response.

XII. [If transfer to Complainant] Is Complainant eligible? Yes.