Panel Decision for dispute CAC-ADREU-008395

Case number	CAC-ADREU-008395
Time of filing	2022-09-13 09:50:52
Domain names	acrelormittal.eu

Case administrator

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

Complainant

Organization	ArcelorMittal (SA)

Respondent

Name	mr bankzz

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 any proceedings which would be pending and which would relate to the disputed domain name (the « **Disputed Domain Name** »).

FACTUAL BACKGROUND

The Complainant is one of the largest steel producing company in the world. It holds sizeable captive supplies of raw materials and operates extensive distribution networks.

The Complainant is the owner of the international trademark n° 947686 ARCELORMITTAL registered on August 3, 2007 (hereinafter the "Trademark"). He also owns an important domain names portfolio, such as the domain name registered since January 27, 2006.

The Disputed Domain Name was registered on August 30, 2022 and is inactive.

A. COMPLAINANT

The Complainant contends as follows:

i) The Disputed Domain Name is identical or confusingly similar with the Trademark.

According to the Complainant, the obvious misspelling of the Trademark (i.e. the reversal of the letters “R” and “C”, is characteristic of a typosquatting practice intended to create confusing similarity between the Complainant’s trademark and the disputed domain name).

Furthermore, the Complainant contends that the addition of the ccTLD “.EU” does not change the overall impression of the designation as being connected to the Complainant’s trademark. It does not prevent the likelihood of confusion between the Disputed Domain Name and the Trademark.

ii) The Respondent has no rights or legitimate interests in respect of the Disputed Domain Name

The Complainant asserts that the Respondent is not known as the Disputed Domain Name.

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.

Besides, the Complainant also claims that the disputed domain name is a typosquatted version of the Trademark and is inactive.

iii) The Disputed Domain Name was registered and is being used in bad faith

The insertion of a famous trademark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use.

B. RESPONDENT

The Respondent did not submit a response by the required deadline.

DISCUSSION AND FINDINGS

In consideration of the Factual Background, the Parties' Contentions stated above and its own web searches, the Panel comes to the following conclusions.

Article 21 of the Regulation (EC) No. 874/2004 of 28 April 2004 (hereafter "the Regulation") states that "a registered domain name shall be subject to revocation [...] where the name is identical or confusingly similar to a name in respect of which a right is recognised 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".

I. RELEVANT RIGHT OF THE COMPLAINANT AND IDENTITY OR CONFUSING SIMILARITY BETWEEN THE SIGNS

The Complainant is the owner of the international trademark "ARCELORMITTAL", n° 947686, registered on August 3, 2007 in classes 35, 36 and 45.

Although the Complainant does not demonstrate that the international Trademark n° 947686, on which he relies, is recognised or established by national and/or Community law, it appears, following the Panel own's researches, that such trademark covers Croatia, which is part of the European Union since 2013. Additionally, the Complainant owns the domain name .

Furthermore, the obvious misspelling of the Trademark (i.e. the reversal of the letters "R" and "C") in the Disputed Name, is characteristic of a typosquatting practice.

As a consequence, this Panel is of the view that:

(i) The Complainant owns a trademark and a company identifier in respect of which a right is recognised by Community law, as required by Article 10(1) of the Regulation.

(ii) The Disputed Domain Name is confusingly similar to the Trademark of the Complainant.

The remaining issue is then to decide whether the Disputed Domain Name has been registered by the Respondent without rights or legitimate interest or whether it has been registered or used in bad faith by the Respondent.

II. LEGITIMATE INTEREST

According to Article 21(2) of the Regulation, "a legitimate interest within the meaning of point (a) of paragraph 1 may be demonstrated where:

(a) prior to any notice of an alternative dispute resolution (ADR) procedure, the holder of a domain name has used the domain name or a name corresponding to the domain name in connection with the offering of goods or services or has made demonstrable preparation to do so;

(b) the holder of a domain name, being an undertaking, organisation or natural person, has been commonly known by the domain name, even in the absence of a right recognised or established by national and/or Community law;

(c) the holder of a domain name is making a legitimate and non-commercial or fair use of the domain name, without intent to mislead consumers or harm the reputation of a name on which a right is recognised or established by national and/or Community law.

In the case at hand, the Respondent:

- has no registered rights in the domain name and has no contractual authorization to do so;

- does not exploit any web site in connection of goods or services linked with the "acrelormittal" name, neither using the domain name.

As a consequence, there is no evidence that the Respondent has any right to use the Disputed Domain Name.

III. BAD FAITH

According to Article 21(3) of the Regulation, "Bad faith, within the meaning of point (b) of paragraph 1 may be demonstrated, where:

(a) circumstances indicate that the domain name was registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the domain name to the holder of a name in respect of which a right is recognised or established by national and/or Community law or to a public body; or

(b) the domain name has been registered in order to prevent the holder of such a name in respect of which a right is recognised or established by national and/or Community law, or a public body, from reflecting this name in a corresponding domain name, provided that:

(i) a pattern of such conduct by the registrant can be demonstrated; or

(ii) the domain name has not been used in a relevant way for at least two years from the date of registration; or

(iii) in circumstances where, at the time the ADR procedure was initiated, the holder of a domain name in respect of which a right is recognised or established by national and/or Community law or the holder of a domain name of a public body has declared his/its intention to use the domain name in a relevant way but fails to do so within six months of the day on which the ADR procedure was initiated;

(c) the domain name was registered primarily for the purpose of disrupting the professional activities of a competitor; or

(d) 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 recognised or established by national and/or Community law or a name of a public body, such likelihood arising as to the source, sponsorship, affiliation or endorsement of the website or location or of a product or service on the website or location of the holder of a domain name; or

(e) the domain name registered is a personal name for which no demonstrable link exists between the domain name holder and the domain name registered.

In the case at hand, it appears that the Disputed Domain Name is inactive since its registration. Moreover, considering all the above elements in the present case and Paragraph B10 of the ADR Rules, the Panel considers the failure of the Respondent to comply with its obligation and time periods under the ADR Rules as grounds to accept the claims of the Complainant.

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As a consequence, it is the view of this Panel that the Disputed Domain Name has been registered by the Respondent without rights or legitimate interest and used in bad faith.

As the Complainant, a Luxembourg registered company, satisfies the general eligibility criteria set out in Article 4(2)(b) of Regulation (EC) n° 733/2002, the domain name can be transferred to the Complainant.

DECISION

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

PANELISTS

Name	**Frédéric Sardain**

DATE OF PANEL DECISION 2023-01-12

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

I. Disputed domain name: acrelomittal.eu

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

III. Date of registration of the domain name: 30 August 2022.

IV. Rights relied on by the Complainant (Art. 21 (1) Regulation (EC) No 874/2004) on which the Panel based its decision:
1. word international trademark "ARCELORMITTAL" registered in Croatia, reg. No. 947686, filed/registered on 3 August 2007 until 30 August 2027 in respect of goods and services in classes 6 ; 7 ; 9 ; 12 ; 19 ; 21 ; 39 ; 40 ; 41 ; 42.
2. other: domain name

V. Response submitted: No.

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

VII. Rights or legitimate interests of the Respondent (Art. 21 (2) Regulation (EC) No 874/2004):
1. No.
2. Why: No registered rights in the domain name and no contractual authorization to use the name.

VIII. Bad faith of the Respondent (Art. 21 (3) Regulation (EC) No 874/2004):
1. Yes
2. Why: No use of the domain name.

IX. Other substantial facts the Panel considers relevant:

X. Dispute Result: Transfer of the disputed domain name

XI. Procedural factors the Panel considers relevant:

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