

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. Domain Administrator Case No. D2022-3498

1. The Parties

The Complainant is Compagnie Générale des Etablissements Michelin, France, represented by Dreyfus & associés, France.

The Respondent is Domain Administrator, Nigeria.

2. The Domain Names and Registrar

The disputed domain names <micheiin-lifestyle.com>, <michelin-lifestyle.com>, and <michelin-lifestyle.com> (the “Disputed Domain Names”) are registered with Sav.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 21, 2022. On September 21, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Names. On September 2, 2022, the Registrar transmitted by email to the Center its verification response registrant and contact information for the Disputed Domain Names which differed from the named Respondent (Privacy Protection, United States of America (“United States”)) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 26, 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 on September 30, 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 October 5, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 25, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 28, 2022.

The Center appointed Lynda M. Braun as the sole panelist in this matter on November 2, 2022. 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 leading tire company worldwide dedicated to enhancing its clients' mobility and sustainability, designing and distributing the most suitable tires, services, and solutions for its clients' needs. Further the Complainant provides digital services, maps, and guides to help enrich trips and travel and make them unique experiences. To this end, the Complainant launched the Michelin Guide in 1920 to help motorists plan their trips, and in 1926 the Michelin Guide began to award stars for fine dining establishments. Headquartered in Clermont-Ferrand, France, the Complainant is present in 171 countries, has 114,000 employees and operates 69 tire manufacturing facilities worldwide.

The Complainant owns the following registered trademarks, including, but not limited to: MICHELIN (stylized), United States Registration No. 77,977,654, registered on September 15, 2009, in International Classes 3, 5, 7, 8, 9, 11, 12, 16, 20, 25, 27 and 28; MICHELIN, United States Registration No. 5,088,515, registered on November 22, 2016, in International Classes 35, 36, 40, 41 and 44; MICHELIN, European Union Trade Mark No. 004836359, registered on March 13, 2008, in International Classes 1, 3, 5, 6, 7, 8, 9, 11, 12, 14, 16, 17, 18, 20, 21, 24, 25, 26, 28, 34 and 39; and MICHELIN, International Trademark No. 771031, registered on June 11, 2001, in International Classes 5, 7, 8, 9, 10, 11, 12, 16, 17, 18, 20, 21, 24, 25, 39 and 42.

The foregoing trademarks will hereby collectively be referred to as "the MICHELIN Mark".

Moreover, the Complainant owns the domain names <michelin.com>, registered on December 1, 1993; <michelinlifestyle.com>, registered on August 7, 2016, and <michelin-lifestyle.com>, registered on September 9, 2013.

The Disputed Domain Names were registered on July 2, 2022 and, at the time of filing the Complaint, resolved to a parking page with commercial pay-per-click ("PPC") links related to the Complainant's products and field of activity.¹

In an effort to resolve this matter amicably, the Complainant sent a cease-and-desist letter to the Respondent via the Registrar on July 13, 2022, asserting its trademark rights and asking the Respondent to cease the use of the Disputed Domain Names and to transfer them to the Complainant. The Respondent did not reply to the Complainant's letter.

5. Parties' Contentions

A. Complainant

The following are the Complainant's contentions:

- the Disputed Domain Names are confusingly similar to the Complainant's MICHELIN Mark;
- the Respondent has no rights or legitimate interests in respect of the Disputed Domain Names; and

¹ As of the writing of this Decision, however, the Disputed Domain Names resolve to error landing pages, each of which states, respectively, "This site can't be reached. Micheiin-Lifestyle.com took too long to respond."(<micheiin-Lifestyle.com>), "This site can't be reached. Michelin-lifestyle.com took too long to respond." (<michelin-lifestyle.com>), and "This site can't be reached. Michelinlifestyle.com took too long to respond." (<michelinlifestyle.com>).

- the Disputed Domain Names were registered and are being used in bad faith.

The Complainant seeks the transfer of the Disputed Domain Names from the Respondent to the Complainant in accordance with paragraph 4(i) of the Policy.

B. Respondent

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

6. Discussion and Findings

In order for the Complainant to prevail and have the Disputed Domain Names transferred to the Complainant, the Complainant must prove the following (Policy, paragraph 4(a)):

(i) the Disputed Domain Names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

(ii) the Respondent has no rights or legitimate interests in respect of the Disputed Domain Names; and

(iii) the Disputed Domain Names have been registered and are being used in bad faith.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires a two-fold inquiry: a threshold investigation into whether a complainant has rights in a trademark, followed by an assessment of whether the disputed domain name is identical or confusingly similar to that trademark. The Panel concludes that in the present case, the Disputed Domain Names are confusingly similar to the MICHELIN Mark.

It is uncontroverted that the Complainant has established rights in the MICHELIN Mark based on its numerous years of use as well as its registered trademarks for the MICHELIN Mark in the United States and jurisdictions worldwide. The consensus view is that the registration of a mark satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.2.1. Thus, the Panel concludes that the Complainant has rights in the MICHELIN Mark.

The Disputed Domain Name consist of the MICHELIN Mark (or misspellings thereof) and the term "lifestyle" (or misspellings thereof) that follows it, and then followed by the generic Top-Level Domain ("gTLD") ".com". The Disputed Domain Name <micheiin-litestyle> misspells the MICHELIN Mark by substituting the letter "i" for the letter "l" and adds the term "litestyle", connecting the terms with a hyphen. The Disputed Domain Name <michelin-liftestyle.com> incorporates the MICHELIN Mark and adds the term "liftestyle", connecting the terms with a hyphen. The Disputed Domain Name <michelin-litestyle.com> incorporates the MICHELIN Mark and adds the term "litestyle", and connecting the terms with a hyphen.

It is well established that a domain name that wholly incorporates a trademark – even a misspelling thereof – may be deemed confusingly similar to that trademark for purposes of the Policy despite the addition of other terms. As stated in section 1.8 of [WIPO Overview 3.0](#), "where the relevant trademark is recognizable within the disputed domain name, the addition of other terms [...] would not prevent a finding of confusing similarity under the first element". Thus, as here, numerous other UDRP decisions have reiterated that the addition of a term to a trademark does not prevent a finding of confusing similarity. See *Allianz Global Investors of America, L.P. and Pacific Investment Management Company (PIMCO) v. Bingo-Bongo*, WIPO Case No. [D2011-0795](#); and *Hoffmann-La Roche Inc. v. Wei-Chun Hsia*, WIPO Case No. [D2008-0923](#).

In addition, a modification to a trademark is commonly referred to as "typosquatting" and seeks to wrongfully take advantage of errors by a user in typing a domain name into a web browser. The misspelling of the

relevant Disputed Domain Names does not prevent a finding of confusing similarity to the MICHELIN Mark. See [WIPO Overview 3.0](#), section 1.9 (“A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element”); see also *Express Scripts, Inc. v. Whois Privacy Protection Service, Inc. / Domaindeals, Domain Administrator*, WIPO Case No. [D2008-1302](#); *Singapore Press Holdings Limited v. Leong Meng Yew*, WIPO Case No. [D2009-1080](#). Moreover, it is well recognized that a disputed domain name that incorporates a trademark may be confusingly similar to that trademark for purposes of the Policy despite the addition of a hyphen. The presence or absence of punctuation marks such as hyphens cannot on their own avoid a finding of confusing similarity. See *Six Continents Hotels, Inc. v. Helen Siew*, WIPO Case No. [D2004-0656](#).

Finally, the addition of a gTLD such as “.com” in a domain name is technically required. Thus, it is well established that such element may typically be disregarded when assessing whether a domain name is identical or confusingly similar to a trademark. See *Proactiva Medio Ambiente, S.A. v. Proactiva*, WIPO Case No. [D2012-0182](#) and [WIPO Overview 3.0](#), section 1.11.1.

Thus, the Disputed Domain Names are confusingly similar to the Complainant’s MICHELIN Mark.

Accordingly, the Panel finds that the first element of paragraph 4(a) of the Policy has been met by the Complainant.

B. Rights or Legitimate Interests

Under the Policy, a complainant has to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name. Once such a *prima facie* case is made, the respondent carries the burden of production of evidence that demonstrates rights or legitimate interests in the disputed domain name. If the respondent fails to do so, the complainant may be deemed to have satisfied paragraph 4(a)(ii) of the Policy. See [WIPO Overview 3.0](#), section 2.1.

There is no evidence in the record suggesting that the Respondent has rights or legitimate interests in the Disputed Domain Names. The Complainant has not authorized, licensed, or otherwise permitted the Respondent to use the Complainant’s MICHELIN Mark. The Complainant does not have any business relationship with the Respondent, nor is the Respondent making a legitimate noncommercial or fair use of the Disputed Domain Names. In considering the use made of the Disputed Domain Names to resolve to a landing page with PPC hyperlinks, the Panel finds that the Respondent was not making a *bona fide* offering of goods or services nor making a legitimate noncommercial or fair use of the Disputed Domain Names. There is also no evidence that the Respondent is commonly known by the Disputed Domain Names or by any names similar to them. Therefore, the Panel finds that nothing on the record before it would support a finding that the Respondent has any rights or legitimate interests in the Disputed Domain Names.

Accordingly, the Panel finds that the second element of paragraph 4(a) of the Policy has been met by the Complainant.

C. Registered and Used in Bad Faith

This Panel finds that, based on the record, the Complainant has demonstrated the existence of the Respondent’s bad faith pursuant to paragraph 4(b) of the Policy.

First, the registration of a domain name that is confusingly similar to a trademark by an entity that has no relationship to that mark may be sufficient evidence of opportunistic bad faith. See *Ebay Inc. v. Wangming*, WIPO Case No. [D2006-1107](#); *Veuve Clicquot Ponsardin, Maison Fondée en 1772 v. The Polygenix Group Co.*, WIPO Case No. [D2000-0163](#). Based on the circumstances here, the Respondent registered and used the Disputed Domain Names in bad faith to target the Complainant’s MICHELIN Mark for commercial gain.

Second, the Disputed Domain Names that contain misspellings of the MICHELIN Mark and/or additional terms joined by a hyphen to those marks (those added terms making the Disputed Domain Names very similar domain names operated by the Complainant) in an attempt to deceive Internet users is evidence of bad faith registration and use. See *Nutricia International BV v. Eric Starling*, WIPO Case No. [D2015-0773](#). The Panel concludes that the Respondent knew about the Complainant's rights in the MICHELIN Mark when it registered the Disputed Domain Names, since it misspelled the MICHELIN Mark and/or the terms that followed it to misdirect users from the Complainant's websites to the Respondent's landing page by capitalizing on typing mistakes made by users. See *ESPN, Inc. v. XC2*, WIPO Case No. [D2005-0444](#).

Third, the Panel finds that the Respondent had actual knowledge of the Complainant's MICHELIN Mark and targeted the Complainant when it registered the Disputed Domain Names, demonstrating the Respondent's bad faith. Based on the widespread use of the MICHELIN Mark worldwide, it strains credulity to believe that the Respondent had not known of the Complainant or its MICHELIN Mark when registering the Disputed Domain Names. The Respondent's awareness of the Complainant and its MICHELIN Mark additionally suggests that the Respondent's decision to register the Disputed Domain Names was intended to cause confusion with the Complainant's MICHELIN Mark and to disrupt the Complainant's business. Such conduct indicates that the Respondent registered and used the Disputed Domain Names in bad faith.

Fourth, the Respondent attracts users for commercial gain by displaying third party PPC links on the landing page to which the Disputed Domain Names initially resolved. The use of a confusingly similar domain name to display third party sponsored hyperlinks competing with or capitalizing on a complainant's trademark and apparently collecting click-through fees is evidence of bad faith under paragraph 4(b)(iv) of the Policy. Thus, as here, the Panel concludes that such conduct constitutes bad faith. See *Fox News Network, LLC v. Warren Reid*, WIPO Case No. [D2002-1085](#); *Volvo Trademark Holding AB v. Unasi, Inc.*, WIPO Case No. [D2005-0556](#); *Lewis Black v. Burke Advertising, LLC*, WIPO Case No. [D2006-1128](#).

Finally, the lack of response by the Respondent to the cease-and-desist letter sent by the Complainant supports a finding of bad faith. Past UDRP panels have held that failure to respond to a cease-and-desist letter may be considered a factor in finding bad faith registration and use of a domain name. See *Encyclopaedia Britannica, Inc. v. John Zuccarini and The Cupcake Patrol a/k/a Country Walk a/k/a Cupcake Party*, WIPO Case No. [D2000-0330](#).

Accordingly, the Panel finds that the third element of paragraph 4(a) of the Policy has been met by the Complainant.

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 Names, <micheiin-lifestyle.com>, <michelin-lifestyle.com>, and <michelin-lifestyle.com>, be transferred to the Complainant.

/Lynda M. Braun/

Lynda M. Braun

Sole Panelist

Date: November 16, 2022