

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v.

Nordsjallands Efterskole

Case No. D2023-0269

1. The Parties

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

The Respondent is Nordsjallands Efterskole, Denmark.

2. The Domain Name and Registrar

The disputed domain name <michelintiregroup.com> is registered with Wild West Domains, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 20, 2023. On January 20, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 23, 2023, 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 (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 24, 2023, 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 January 25, 2023.

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 January 31, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 20, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 22, 2023.

The Center appointed Halvor Manshaus as the sole panelist in this matter on March 10, 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 leading tire company headquartered in Clermont-Ferrand, France. The Complainant is present in 170 countries and operates 117 tire manufacturing facilities and sale agencies in 26 countries, including the United States of America (“United States”). The Complainant has more than 124,000 employees.

The Complainant owns several trademark registrations around the world for MICHELIN, including the following:

The United States registration No. 3684424, registered on September 15, 2009, for various goods in classes 3, 5, 7, 8, 9, 11, 12, 16, 17, 20, 21, 24, 25, 27, and 28.

The United States registration No. 4126565, registered on April 10, 2012, for various goods and services in classes 36, 37, and 39.

The international trademark registration No. 771031 registered on dated June 11, 2001, designating among others China, Egypt, Morocco, Russian Federation, and Singapore for various goods and services in classes 5, 7, 8, 9, 10, 11, 12, 16, 17, 18, 20, 21, 24, 25, 39, and 42.

The Complainant holds the domain names <michelin.com>, registered on December 1, 1993, <michelintire.com>, registered on February 3, 1997, and <michelingroup.com>, registered on September 20, 1999, where the Complainant and its affiliates promote their services.

The disputed domain name was registered on August 1, 2022. The disputed domain name diverts to an inactive website, and an email server is configured on the disputed domain name.

5. Parties’ Contentions

A. Complainant

The Complainant’s arguments can be summarized as follows:

The Complainant argues that the disputed domain name is identical or confusingly similar to the Complainant’s trademarks as it reproduces the Complainant’s trademark in its entirety. According to the Complainant, the inclusion of the Complainant’s trademark and the generic terms “tire” and “group” heightens the likelihood of confusion by making direct reference to the Complainant’s main field of activity and enhancing the false impression that the disputed domain name is connected to the Complainant’s business.

The Complainant submits that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant has not authorized the Respondent to use or register its trademark or the disputed domain name, and the Respondent is not affiliated with the Complainant. Furthermore, the Complainant’s registration of the MICHELIN trademarks precedes the disputed domain name’s registration. The Complainant submits that the Respondent fails to show any intention of noncommercial use or fair use of the disputed domain name. According to the Complainant, the Respondent’s registration of a domain name that is virtually identical to the Complainant’s trademark and registered domain name directing Internet users to an inactive page does not amount to good faith use. Further, the Complaint argues that the Respondent’s

failure to respond to the Complainant's cease-and-desist letters indicates that the Respondent lacks rights or legitimate interests in the disputed domain name.

The Complainant contends that the disputed domain name was registered and is used in bad faith. The Complainant reiterates that the MICHELIN trademark is well-known worldwide and that the Respondent therefore knew or should have known of the Complainant's trademark rights. Further, the Complainant states that the disputed domain name incorporates the Complainant's trademark with the generic terms "group" and "tire", directly referring to the Complainant's field of activity. Consequently, the Complainant argues that the Respondent registered the disputed domain name based on the attractiveness of the Complainant's trademarks to divert Internet traffic to the disputed domain name and to cause confusion among Internet users to take unfair advantage of the Complainant's goodwill and reputation.

The Complainant further argues that the disputed domain name was registered using a privacy shield service, thereby preventing the Complainant from contacting the Respondent, suggesting bad faith. According to the Complainant, there is a risk that the Respondent might engage in a phishing scheme as an email server has been configured on the disputed domain name. Further, the Complainant states that the inactivity on the disputed domain name does not constitute good faith use.

B. Respondent

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

6. Discussion and Findings

The Complainant has, in accordance with paragraph 4(a) of the Policy, requested that the disputed domain name be transferred to the Complainant.

In accordance with paragraph 4(a) of the Policy, in order to succeed in this proceeding and have the disputed domain name transferred, the Complainant must establish that the three following elements are satisfied for the disputed domain name:

- (i) the disputed domain name is 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 name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

Pursuant to paragraph 15(a) of the Rules, the Panel shall 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. Furthermore, in accordance with paragraph 14(b) of the Rules, if a party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, the Rules or any request from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate.

On the basis of the evidence submitted by the Complainant and, in particular, with regards to the content of the relevant provisions of the Policy (paragraphs 4(a), 4(b), and 4(c)), the Panel concludes as follows:

A. Identical or Confusingly Similar

Under the first element of paragraph 4(a) of the Policy, the Complainant must establish that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

Based on the evidence submitted by the Complainant, the Panel finds that the Complainant indisputably holds numerous trademark registration of MICHELIN in several jurisdictions and that the MICHELIN mark is well-known and vested with significant goodwill.

The disputed domain name comprises the Complainant's trademark in its entirety together with the words "tire", "group" and the generic Top-Level Domain (gTLD) ".com". As held in *Accor v. Noldc Inc.*, WIPO Case No. [D2005-0016](#), the gTLD part of a domain name is not taken into consideration when examining the identity or similarity between a complainant's trademark and a disputed domain name.

The Panel finds that the addition of the generic terms "tire" and "group" does not prevent a finding of confusing similarity.

Accordingly, the Panel finds that the Complainant has satisfied the requirement under paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

For the Complainant to succeed under paragraph 4(a)(ii) of the Policy, the Complainant must establish a *prima facie* case that the Respondent has no right or legitimate interest in the disputed domain name. If the Complainant establishes a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name, the evidentiary burden of production shifts to the Respondent, see *OSRAM GmbH v. Mohammed Rafi/Domain Admin, Privacy Protection Service INC d/b/a PrivacyProtect.org*, WIPO Case No. [D2015-1149](#).

The Respondent has not replied to the Complainant's contentions or cease-and-desist letter.

Further, the Panel has not been presented with, or discovered, any evidence that i) the Respondent has received a license or other permission to use the Complainant's trademark or any domain name incorporating this mark; (ii) the Respondent is commonly known by the disputed domain name; (iii) the Respondent has acquired trademark rights to use the disputed domain name; or (iv) the Respondent is making legitimate noncommercial or fair use of the disputed domain name. At the time of this decision, the disputed domain name reverts to an inactive website, which does not constitute a genuine use of a domain name or a *bona fide* offering of goods and services.

Moreover, the Complainant did not grant any license or permission to the Respondent for the registration of a disputed domain name including the Complainant's trademark, which is another factor in concluding that the Respondent lacks legitimate interests in the disputed domain name, see *Groupe Auchan v. Gan Yu*, WIPO Case No. [D2013-0188](#).

Based on the above, the Panel therefore concludes that the conditions of paragraph 4(a)(ii) of the Policy have been met.

C. Registered and Used in Bad Faith

In order to prevail under the third element of paragraph 4(a) of the Policy, the Complainant must demonstrate that the disputed domain name has been registered and is being used in bad faith.

The Complainant has credibly shown that the MICHELIN mark is well-known and vested with significant goodwill. Further, the Complainant's registration of the MICHELIN trademark predates the registration of the disputed domain name. The Panel therefore finds it unlikely that the Respondent was unaware of the Complainant's rights to the MICHELIN trademark at the time of registration of the disputed domain name.

The disputed domain name resolves to an inactive website. As held in *LEGO Juris A/S v. Djuradj Caranovic*, WIPO Case No. [D2021-2641](#), the lack of so-called active use of the disputed domain name does not prevent a finding of bad faith. In such cases, panelists look at the totality of the circumstances in each case, see

WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 3.3.

Considering that the Respondent has not filed any response in these proceedings or to the Complainant's cease-and-desist letter, and the distinctiveness of the Complainant's trademark, the Panel is convinced that the overall circumstances of the case strongly suggest that the Respondent's non-use of the disputed domain name is in bad faith.

Moreover, the disputed domain name comprises the Complainant's trademark in its entirety and the generic words “tire” and “group” directly associated with the Complainant's main field of activity. The Panel therefore finds it likely that the Respondent registered the disputed domain name to prevent the Complainant from using it, and the Respondent's primary motive is to use the disputed domain name to commercialize or otherwise take advantage of the Complainant's trademark rights.

For the foregoing reasons, the Panel concludes that the disputed domain name has been registered and is being used in bad faith. Accordingly, the third element of paragraph 4(a) of the Policy has been fulfilled.

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, <michelintiregroup.com>, be transferred to the Complainant.

/Halvor Manshaus/

Halvor Manshaus

Sole Panelist

Date: March 24, 2023