

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. Stephanie Johnson,
Prim n Proper Co.

Case No. D2024-1400

1. The Parties

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

The Respondent is Stephanie Johnson, Prim n Proper Co, United States of America (“U.S.”).

2. The Domain Name and Registrar

The disputed domain name <onamichelin.com> (“Domain Name”) is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 2, 2024. On April 3, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On the same day, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the 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 April 10, 2024, 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 April 12, 2024.

On April 12 and 15, 2024, the Respondent sent email communications to the Center. The Center sent an email regarding the possible settlement on April 16, 2024 to the Parties. On the same day, the Complaint requested to suspend the proceeding. On April 16, 2024, the Center confirmed that the proceeding was suspended until May 16, 2024. On May 15, 2024, the Complainant requested an extension to suspension. On the same day, the Center confirmed that the suspension was extended until June 15, 2024. On June 6, 2024, the Respondent sent another email communication. On July June 13, 2024, the Complainant requested to reinstitute the proceeding. On the same day, the Center notified the reinstatement of the proceeding.

The Center verified that the Complaint 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 June 14, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 4, 2024. The Respondent did not submit any formal response. Accordingly, the Center sent the commencement of panel appointment process email on July 5, 2024.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on July 9, 2024. 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 company, designing and distributing tires, digital services, maps and guides. The Complainant is present in 171 countries, has more than 114,000 employees and operates close to 70 manufacturing facilities.

The Complainant owns trademark registrations of the MICHELIN trademark in numerous countries, such as International trademark registration No. 771031, registered June 11, 2001 and U.S. trademark No. 3329924, registered on November 6, 2007. The Complainant owns <michelin.com> since 1993.

The Domain Name was registered on March 2, 2023. The Domain Name has resolved to a parking page containing commercial links.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name. The Complainant documents registered trademark rights and argues that the trademark is “well-known” or “famous”. The Complainant argues that the Domain Name is confusingly similar to the Complainant’s trademark. Adding the term “ona” does not prevent any likelihood of confusion as it targets directly its field of activity, in particular a Michelin-starred restaurant “ONA”.

The Complainant asserts that the Respondent is not affiliated with nor authorized by the Complainant in any way. The Complainant argues that the Respondent cannot establish rights in the Domain Name, as the Respondent has not made any use of, or demonstrable preparations to use, the Domain Name in connection with a bona fide offering of goods or services. The Complainant submits that the Domain Name redirects to a parking page containing commercial links which is not considered a bona fide use.

Finally, the Complainant submits that the Complainant is well-known throughout the world. Based on this and the composition of the Domain Name, the Respondent must have been aware of the Complainant’s trademark when the Respondent registered the Domain Name. The Complainant’s trademark registrations predate the registration date of the Domain Name. The Respondent is using the Domain Name with the intention to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant’s trademark as to the source, sponsorship, affiliation, or endorsement. The Complainant points to the Respondent’s lack of response to the cease-and-desist letter and use of a privacy service, as further indication of bad faith.

B. Respondent

The Respondent did not reply formally to the Complainant's contentions, but sent emails to the Complainant, copied to the Center, on April 12 and 15, 2024, inter alia stating "What is needed from me to correct this issue. I can contact godaddy immediately and have the website unregistered if that is the solution.". It was followed by an email dated June 6, 2024: "Greetings, I have consulted legal counsel and have been advised that I own this site legally and am not bound by any law to release to anyone. No settlement form will be signed or agreed upon per your requests sent. If the complainant is interested in purchasing the domain you may send me an official offer of purchase. If there is no interest in purchasing, please refrain from sending any additional communications to my email address and contact Godaddy.com directly."

6. Discussion and Findings

A. Identical or Confusingly Similar

The first element functions primarily as a standing requirement. The test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

The Complainant has established rights in its trademark MICHELIN. The Domain Name incorporates the Complainant's trademark with "ona" added. This does not prevent a finding of confusing similarity. For the purposes of assessing confusing similarity under paragraph 4(a)(i) of the Policy, it is permissible for the Panel to ignore the generic Top-Level Domain ("gTLD") as it is viewed as a standard registration requirement, see [WIPO Overview 3.0](#), section 1.11.1.

The Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name. 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.

The Complainant asserts that the Respondent is not affiliated with nor authorized by the Complainant. There is no evidence suggesting that the Respondent has any rights or legitimate interests in the Domain Name. Further, there is no evidence that the Respondent is commonly known by the Domain Name. The Respondent cannot establish rights in the Domain Name, as it has not made use of, or demonstrable preparations to use, the Domain Name in connection with a bona fide offering. The Respondent's use is not bona fide, but rather suggests bad faith.

The Panel finds that the Complainant has made out a prima facie case showing that the Respondent has no rights or legitimate interests in the Domain Name, which has been un rebutted by the Respondent. Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name in accordance with paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

The Complainant's trademarks were registered long before the registration of the Domain Name, and the trademark MICHELIN is well-known. This, together with the composition of the Domain Name, suggests that the Respondent was aware of the Complainant's trademark when the Respondent registered the Domain Name.

The Domain Name seems to be registered to attract Internet users by misleading them into believing that the website at the Domain Name is authorized by or somehow connected to the Complainant. Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a well-known trademark by an unaffiliated entity can by itself create a presumption of bad faith, see [WIPO Overview 3.0](#), section 3.1.4. The Respondent has not provided any evidence of good-faith use. The Domain Name resolves to a parking page containing commercial links. All the above supports a finding of bad faith.

The Panel concludes that the Domain Name was registered and is being used in bad faith, within the meaning of the 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 the Domain Name <onamichelin.com> transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: July 15, 2024