

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. Jonathan Snead
Case No. D2022-0450

1. The Parties

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

Respondent is Jonathan Snead, United States of America (“U.S.”).

2. The Domain Name and Registrar

The disputed domain name <themichelinminivan.com> 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 February 9, 2022. On February 10, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 14, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from named Respondent and contact information in the Complaint. The Center sent an email communication to Complainant on February 16, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on February 18, 2022.

The Center verified that the Complaint together with 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 Respondent of the Complaint, and the proceedings commenced on February 23, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 15, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on March 25, 2022.

The Center appointed Richard C.K. van Oerle as the sole panelist in this matter on April 4, 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

Complainant, Compagnie Générale des Etablissements Michelin, is a leading company in the car tire industry. Complainant is headquartered in Clermont-Ferrand, France, with nine research and development (R&D) centers around the world, 117 production sites in 26 countries, a commercial presence in 170 countries, and 124,000 employees worldwide.

Complainant has an extensive global portfolio of trademarks including the term “Michelin”, including the following:

- U.S. trademark MICHELIN No. 0892045, filed on June 5, 1969, registered on June 2, 1970, duly renewed and covering goods in class 12;
- U.S. trademark MICHELIN No. 4126565, filed on January 19, 2011, registered on April 10, 2012, duly renewed and covering services in classes 36, 37 and 39.

These registrations will jointly be referred to as the “Trademark”.

Complainant and its affiliates operate the domain name <michelin.com>, registered on December 1, 1993.

The disputed domain name was registered on May 19, 2020. It resolved towards a parking page displaying commercial links directly related to Complainant’s field of activity.

Before starting the present proceeding, Complainant made efforts to resolve this matter amicably by sending a cease-and-desist letter to the Registrar, requesting blocking of the disputed domain name. The latter responded, by indicating that they would remove all advertisements appearing on the parked page. However, the disputed domain name was not blocked, despite Complainant’s request.

The disputed domain name currently resolves to an inactive page.

5. Parties’ Contentions

A. Complainant

Complainant claims that the disputed domain name is confusingly similar to Complainant’s Trademark, which reproduces the well-known trademark MICHELIN in its entirety. Complainant argues that the disputed domain name associates Complainant’s trademark with the word “the minivan”, a generic and descriptive term and does not influence the similarity between the Trademark and the disputed domain name.

On the contrary, the addition of the term heightens the likelihood of confusion because it makes a direct reference to Complainant’s field of activity, *i.e.*, automobiles, car trips, *etc.* Complainant has consistently used the Trademark in connection with products, including minivan tires. Consequently, the public has learnt to perceive the goods offered under this Trademark as being those of Complainant. Therefore, the public would reasonably assume that the disputed domain name would be owned by Complainant or at least assume that it is related to Complainant.

Complainant further asserts that Respondent has no rights or legitimate interests in respect of the disputed domain name. Respondent is neither affiliated with Complainant nor has he been authorized by Complainant to use the Trademark, nor to register the disputed domain name incorporating the Trademark. In the absence of any license or permission from Complainant to use such widely-known Trademark, no

actual or contemplated *bona fide* or legitimate use of the disputed domain name could reasonably be claimed.

Further, the disputed domain name directed Internet users to a parking page with pay-per-click links directly related to Complainant's field of activity, and these pay-per-click links are likely to generate revenues. Hence, it cannot be inferred that Respondent is making a legitimate noncommercial or fair use of the disputed domain name.

Finally, with regard to the disputed domain name having been registered and is being used in bad faith, Complainant argues that:

- Complainant's MICHELIN Trademark is well known throughout the world including in the U.S., where Respondent seems to be located;
- the disputed domain name reproduces the Trademark in its entirety and by adding the term "minivan" makes direct reference to Complainant's field of activity;
- given the notoriety of the Trademark, which is exclusively associated with Complainant, it is inconceivable that Respondent was unaware of Complainant and its rights in the Trademark when he registered the disputed domain name;
- knowledge of Complainant's trademark rights at the time of registration of the disputed domain name proves bad faith registration;
- given Complainant's goodwill and notoriety worldwide, it is not possible to conceive that Respondent could legitimately use the disputed domain name, as his use would invariably result in misleading diversion and taking unfair advantage of Complainant's rights; and
- the "passive holding" of the disputed domain name does not preclude a finding of bad faith.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that Complainant prove each of the following three elements in order to succeed in its Complaint:

- (i) the disputed domain names are identical or confusingly similar to a trade mark or service mark in which Complainant has rights; and
- (ii) 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.

Complainant bears the burden of proving that all these requirements are fulfilled, even if Respondent has not replied to Complainant's contentions. *Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

However, concerning the uncontested information provided by Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See section 2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

A. Identical or Confusingly Similar

The Panel confirms that Complainant has satisfied the threshold requirement of having trade mark rights regarding the MICHELIN Trademark. Although not identical, the disputed domain name fully incorporates the Trademark MICHELIN. The addition of the terms "the" preceding the Trademark, and "minivan" following

the Trademark does not prevent a finding of confusing similarity between the disputed domain name and Complainant's Trademark.

The applicable Top-Level Domain ("TLD") in a domain name (e.g., ".com", ".club", ".nyc") is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test (see [WIPO Overview 3.0](#), section 1.11.1).

The Panel therefore finds that the disputed domain name is confusingly similar to the Trademark. The requirements of paragraph 4(a)(i) of the Policy are fulfilled.

B. Rights or Legitimate Interests

The overall burden of proof on this element rests with Complainant. However, it is well established by previous UDRP decisions that once a complainant establishes a *prima facie* case that a respondent lacks rights or legitimate interests in a domain name, the burden of production shifts to the respondent to rebut the complainant's contentions. If the respondent fails to do so, the complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy (*Danzas Holding AG, DHL Operations B.V. v. Ma Shikai*, WIPO Case No. [D2008-0441](#); [WIPO Overview 3.0](#), section 2.1 and cases cited therein).

Respondent has not submitted a response to the Complaint, in the absence of which the Panel may accept all reasonable inferences and allegations in the Complaint as true. See *Talk City, Inc. v. Michael Robertson*, WIPO Case No. [D2000-0009](#). Regardless, the Panel has carefully reviewed the record in this case, and finds nothing therein that would bring Respondent's registration and use of the disputed domain name within any of the "safe harbors" of paragraph 4(c) of the Policy.

In the light of the evidence submitted by Complainant, it is clear to the Panel that Complainant has earlier and lawful rights in the MICHELIN Trademark. Therefore, the Panel finds on the current record that Complainant has proved rights in the MICHELIN Trademark and established a *prima facie* case that Respondent does not have rights or legitimate interests in the disputed domain name for the purposes of the Policy.

The Panel is convinced that Respondent must have been aware of Complainant's registered Trademark, and that Respondent has deliberately used the MICHELIN Trademark in the disputed domain name in order to divert Internet users to a parking page with pay-per-click links which are likely to generate revenues. The Panel believes that this does not constitute a *bona fide* offering of goods or services under the Policy.

In the circumstances, Respondent has not produced any evidence of its rights or legitimate interests in the disputed domain name and Complainant is entitled to succeed on the second element of paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

Complainant's case summarised in sections 5A above is, in the Panel's opinion, well made out.

The Panel refers to its considerations under section 6B and adds the following.

Based on the information and the evidence provided by Complainant, the Panel finds that at the time of registration of the disputed domain name, Respondent was or should have been aware of Complainant's Trademark. Complainant has been very well known as a global company active in the field of, *inter alia*, automobiles, car trips, etc. and has used the Trademark in connection with products, including minivan tires, for a long time, and a trademark register search, or even a simple online search prior to the registration of the disputed domain name would have informed Respondent of the existence of Complainant's prior trademark rights and its extensive use of the Trademark as a source identifier.

Moreover, the construction of the disputed domain name itself strongly suggests that Respondent was aware

of Complainant's Trademark. The disputed domain name replicates the Trademark in its entirety, with the addition of the term "minivan", referring to the type of automobile for which Complainant's tires are sold under the Trademark. As the term "minivan" targets Complainant's field of activity, Internet users are likely to believe that the disputed domain name is related to or endorsed by Complainant and that it will direct them to an official website of Complainant providing information on the products.

Based on the information and the evidence provided by Complainant, Respondent has never used and does not intend to use the disputed domain name in connection with a *bona fide* offering of goods or services, as in the present case, the disputed domain name redirected Internet users to a parking page with pay-per-click links directly targeting Complainant's field of activity, which are likely to generate revenues.

Furthermore, the failure of Respondent to submit a response or to provide any evidence of actual or contemplated good faith use, or to this Complaint is further evidence of bad faith, given all the circumstances of the case (see [WIPO Overview 3.0](#), section 3.2).

In addition, the current non-use of the disputed domain name would not prevent a finding of bad faith under the doctrine of passive holding (see [WIPO Overview 3.0](#), section 3.3).

Based on the evidence and circumstances of this case, the Panel concludes that the requirement of registration and use of the disputed domain name in bad faith under paragraph 4(a)(iii) 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 <themichelinminivan.com> be transferred to Complainant.

/Richard C.K. van Oerle/

Richard C.K. van Oerle

Sole Panelist

Date: April 18, 2022