

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. Privacy Protection /
wencheng jian

Case No. D2022-2685

1. The Parties

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

The Respondent is Privacy Protection, United States of America (“U.S.”) / wencheng jian, China.

2. The Domain Name and Registrar

The disputed domain name <mivhelin.com> is registered with Sav.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 22, 2022. On July 22, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 22, 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 the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on July 25, 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 July 28, 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 August 8, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 28, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 29, 2022.

The Center appointed Ada L. Redondo Aguilera as the sole panelist in this matter on September 1, 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 in this administrative proceeding is Compagnie Générale des Etablissements Michelin, with its registered office located in France.

The Complainant is Compagnie Générale des Etablissements Michelin (“Michelin”), a leading tire company, number 1 worldwide for tires, which is dedicated to enhancing its clients’ mobility, sustainably, designing and distributing the most suitable tires, services, and solutions for its clients’ needs, providing digital services, maps and guides to help enrich trips and travels and make them unique experiences, and developing high technology materials that serve the mobility industry.

The Complainant is headquartered in Clermont-Ferrand, France, has presence in 171 countries, has 114,000 employees, and operates 69 tire manufacturing facilities.

Since the year 1889, the Complainant has innovated constantly to facilitate the mobility of people and goods, thus contributing to the advancement of human progress. Today, the Complainant is the leader in tire technology for every type of vehicle, leveraging its expertise in high technology materials to the efficiency of the products and services that provide.

The Complainant and its trademark MICHELIN enjoy a worldwide reputation. The Complainant owns numerous MICHELIN trademark registrations around the world. In particular, the Complainant is the owner of the following MICHELIN trademark registrations in the U.S.:

- U.S. Registration MICHELIN (device), No. 3684424, dated September 15, 2009, duly renewed and covering goods in classes 3, 5, 7, 8, 9, 11, 12, 16, 27, and 28;
- U.S. Registration MICHELIN (device), No. 3329924, dated November 6, 2007, duly renewed and covering goods in class 39;
- U.S. Registration MICHELIN, No. 5775734, dated June 11, 2019, covering goods and services in classes 9, 39, and 42.

The Complainant operates its official website through <michelin.com> registered on December 1, 1993, and <michelin.us> registered on April 19, 2002.

The disputed domain name was registered on March 30, 2022, and it resolves to a pay-per-click website.

5. Parties’ Contentions

A. Complainant

The Complainant argues that the disputed domain name is confusingly similar to its trademark MICHELIN. Due to the fact that the trademark is included in its entirety with as a typosquatting changing a “v” instead of a “c” <mivhelin.com>. Also, the Complainant argues that the Respondent has no rights or legitimate interests with respect to the disputed domain name and finally, that the Respondent registered and is using the disputed domain name in bad faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant is the owner of the trademark MICHELIN, and has presented relevant evidence of this fact in the present case.

The Panel is satisfied that the Complainant has established their trademark rights on the MICHELIN trademark (the “Trademark”). The test that a panel must do in order to establish if a disputed domain name is confusingly similar to a trademark involves the comparison between the trademark and the disputed domain name.

In this case, the disputed domain name consists of a misspelling of the Trademark.

In the present case of the disputed domain name <mivhelin.com> there is a replacement of the letter “v” instead of the “c”, in the middle of the disputed domain name. Such composition does not significantly affect the appearance of the disputed domain name regarding the trademark MICHELIN. This practice is commonly referred to as “typosquatting”, and creates virtually identical and/or confusingly similar marks to the Complainant’s trademark see *Mapfre S.A. y Fundación Mapfre v. Josep Sitjar*, WIPO Case No. [D2011-0692](#); see also *Compagnie Gervais Danone of Paris v. Jose Gregorio Hernandez Quintero*, WIPO Case No. [D2009-1050](#).

Finally, the extension “.com” is not to be taken into consideration when examining the identity or similarity between the Complainant’s trademarks and the disputed domain name see *Accor v. Noldc Inc.*, WIPO Case No. [D2005-0016](#). The mere adjunction of a generic Top-Level Domain (“gTLD”) such as “.com” is irrelevant as it is well established that the gTLD does not avoid a finding of confusing similarity the *L’Oréal v. Tina Smith*, WIPO Case No. [D2013-0820](#), *Titoni AG v Runxin Wang*, WIPO Case No. [D2008-0820](#), and *Alstom v. Itete Peru S.A*, WIPO Case No. [D2009-0877](#).

It is well established that the disputed domain name which consist of a common, obvious, or intentional misspelling of a trademark are considered to be confusingly similar to the relevant mark for the purposes of the first element. In the present case, we begin with the fact that the disputed domain name contains sufficiently recognizable aspects of the relevant mark (see section 1.9.1 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”). This is a typical typosquatting case as the disputed domain name is clearly a misspelling of the Trademark.

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

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, a respondent may establish rights to or legitimate interests in a disputed domain name by demonstrating any of the following:

(i) before any notice to it of the dispute, the respondent’s use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or (ii) the respondent has been commonly known by the domain name, even if it has acquired no trademark or service mark rights; or (iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain, to misleadingly divert consumers, or to tarnish the trademark or service mark at issue.

Even though the Policy addresses ways in which a respondent may demonstrate rights or legitimate interests in a disputed domain name, it is well established that, as it is put in section 2.1 of [WIPO Overview 3.0](#) that a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests. Once such *prima facie* case is made, the burden of production shifts to the respondent to come forward with relevant allegations and evidence demonstrating rights or legitimate interests in the domain name. If the respondent does come forward with arguments or evidence proving their rights or legitimate interests, the panel weighs all the evidence, with the burden of proof always remaining on the

complainant.

The Complainant contends that the Respondent is not referred to or commonly known by the disputed domain name or the Trademark. The Respondent has not been authorized by the Complainant to register or use the Trademark in any way including the disputed domain name. The website that is displayed on the disputed domain name does not show any *bona fide* offering of goods or services. The website is a pay-per-click site with links to third party commercial websites which are competitors of the Complainant. This does not confer any rights or legitimate interests.

The Respondent had the opportunity to demonstrate its rights or legitimate interests but did not do so. In the absence of a Response from the Respondent, the *prima facie* case established by the Complainant has not been refuted by the Respondent.

Therefore, the Panel finds that the Complainant has established that the Respondent has no rights or legitimate interests in the disputed domain name. In light of the above, the Complainant has complied with the second element of the Policy. Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

To prevail under the Policy, the Complainant must show that the disputed domain name has been registered and is being used in bad faith. It is a cumulative requirement.

The Panel is satisfied that the Respondent must have been aware of the Trademark when it registered the disputed domain name as the disputed domain name is a clear misspelling of the Trademark.

Further, the use of the disputed domain name is also in bad faith. Firstly, there is a presumption of bad faith in the registration and use of a domain name in typosquatting cases. This was the opinion of the panel in *TPI Holdings, Inc. v. LaPorte Holdings*, WIPO Case No. [D2006-0235](#), “typosquatting – intentionally adding or deleting a letter or two, or transposing letters in, a valid mark of another in one’s domain name – is presumptive evidence of bad faith in registration and use of a disputed domain name”.

The Respondent’s use of the website also supports a finding that the disputed domain name is being used in bad faith. The website displayed in the disputed domain name is a pay-per-click site which has been set up to the commercial benefit of the Respondent and which directs Internet users to other sites. It is likely that Internet users, when visiting the website connected to the disputed domain name will believe that the disputed domain name is related in some way to the Complainant.

The disputed domain name is likely to confuse Internet users trying to find the Complainant’s official website. Such confusion will inevitably result due to the misspelling of the Trademark in the disputed domain name, with a clear intention on the part of the Respondent to attract for commercial gain by confusing and misleading Internet users into believing that the website is authorized or endorsed by the Complainant.

The Panel therefore also concludes that the disputed domain name was registered and is being used in bad faith under paragraphs 4(a)(iii) and 4(b)(iv) 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 that the disputed domain name, <mivhelin.com>, be transferred to the Complainant.

/Ada L. Redondo Aguilera/

Ada L. Redondo Aguilera

Sole Panelist

Date: September 15, 2022