

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. Chien-Wei Lee Case No. D2022-4474

1. The Parties

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

The Respondent is Chien-Wei Lee, Taiwan Province of China.

2. The Domain Name and Registrar

The disputed domain name <michelintoys.com> is registered with FastDomain Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 23, 2022. On November 23, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 23, 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 (Domain Privacy Service FBO Registrant) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 24, 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 November 25, 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 December 6, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 26, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 27, 2022.

The Center appointed Alvaro Loureiro Oliveira as the sole panelist in this matter on January 5, 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

Established since 1889, the Complainant, Compagnie Générale des Etablissements Michelin, is a global leader in the world of tires. The Complainant has activities around the world, being present in over 170 countries, and having over 124,000 employees.

The Complainant operates 117 tire manufacturing facilities and sales agencies in 26 countries, including in the United States of America (“United States”), as shown by Annex 3 to the Complaint. The same Annex 3 brings evidence of the contribution of the Complainant in the field of mobility and the development of host communities.

Also, Annex 3 lists several prizes and awards given to the Complainant throughout the years, as well as evidence of the renowned travel guides launched by the Complainant in 1920, which are famous until today, especially regarding the rating of restaurants and hotels around the globe.

As shown in Annex 4 to the Complaint, the Complainant owns several registrations for the mark MICHELIN throughout the world, with attention to the registrations granted in the United States as well as the international registration, including the United States registration number 0892045, registered on June 2, 1970, covering goods in class 12, and international trademark registration No. 771031, registered on June 11, 2001, covering goods and services in 5, 7, 8, 9, 10, 11, 12, 16, 17, 18, 20, 21, 24, 25, 39, and 42, and designating, among others, China.

The Complainant has registered a comprehensive number of domain names incorporating the mark MICHELIN. Among these, it is important to mention the domain name <michelin.com>, registered since 1993. Evidence of these registrations appear as Annex 5 to the Complaint.

The disputed domain name was registered on August 8, 2019 and is directed to a website displaying commercial links related to toys, Michelin tires, car parts for sale, wheel accessories, and etc.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to the Complainant's mark registered and used worldwide. In fact, the disputed domain name is composed by the mark MICHELIN, which is identical to the Complainant's registered mark, together with the word “toys”.

The expression chosen by the Respondent to compose the disputed domain name together with the trademark is “toys”, which is related to the Complainant's main activities. This descriptive term does not negate the confusing similarity between the disputed domain name and the Complainant's trademark. On the contrary, it would lead to confusion, given the presence of the Complainant's mark. It may also lead the consumer to consider that the website associated with the disputed domain name may be an official page of the Complainant related to toy cars and the like.

The Complainant owns several registrations for the trademark MICHELIN, as well as domain names formed by it, as evidenced by Annexes 4 and 5 to the Complaint.

The disputed domain name adopted by the Respondent – a reproduction of the Complainant’s registered mark associated with a descriptive expression – shows a clear intention of misleading Internet users, as it directs to a website that bears commercial links related to toys, including those making reference to cars, as seen in Annex 1 to the Complaint.

The Complainant asserts that before starting this proceeding it made efforts to resolve the matter amicably, by addressing a cease and desist letter via email to the other party, as well as several reminders. All remained unanswered. The Complainant also addressed a notification to the Registrar requesting the blocking of the disputed domain name, but the response received was negative. All relevant evidence is shown in Annex 6 to the Complaint.

B. Respondent

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

6. Discussion and Findings

The Policy, in its paragraph 4(a), determines that three elements must be present and duly proven by a complainant to obtain relief. These elements are:

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

A. Identical or Confusingly Similar

Regarding the first of the elements, the Panel is satisfied that the Complainant has presented adequate proof of having rights in the mark MICHELIN, which is registered and clearly used regularly throughout the world.

Further, the Panel finds that the disputed domain name is confusingly similar to the trademark belonging to the Complainant, since this mark is entirely reproduced in the disputed domain name registered by the Respondent with the addition of the term “toys”. According to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.8, where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. Further, it is well established that “.com”, as a generic Top-Level Domain, is disregarded in the assessment of the confusing similarity between the disputed domain name and the Complainant’s mark (section 1.11.1 of the [WIPO Overview 3.0](#)).

Hence, the Panel concludes that the first element of the Policy has been satisfied by the Complainant in this proceeding.

B. Rights or Legitimate Interests

The Panel notes that the mark MICHELIN is naturally associated with the Complainant, since it is not only registered as a mark, but also has been used to identify the goods and services rendered by the Complainant for more than a century.

Further, the Complainant has provided evidence of the renown of the mark MICHELIN and the full range of products and services rendered under this name, such as tires and other related goods and services, as well as the internationally renowned travel and restaurant guides.

Hence, the Panel considers that the Respondent, in all likelihood, could not be unaware of the mark MICHELIN, and its direct relation to the Complainant.

In fact, the Complainant has never authorized the Respondent to use its MICHELIN mark, and the Complainant has presented evidence that the disputed domain name has been used for a website bearing links related to toys, Michelin tires, car parts for sale, wheel accessories, and etc., which leads to the Complainant's field of activity.

The Panel is satisfied that the Complainant has made a *prima facie* showing of the Respondent's lack of rights or legitimate interests in the disputed domain name. This has not been rebutted by the Respondent.

Thus, the Panel concludes that the Respondent has no rights or legitimate interests in the disputed domain name. For this reason, the Panel finds that the Complainant has satisfied the second element of the Policy.

C. Registered and Used in Bad Faith

It is clear to the Panel that the Respondent knew or should have known of the Complainant's MICHELIN mark, and has in all probability registered the disputed domain name with the purpose of taking advantage of the Complainant's mark.

The Panel finds that the disputed domain name was likely registered to mislead consumers because the disputed domain name incorporates the Complainant mark in its entirety with the addition of the term "toys", which is related to the Complainant's business, a fact from which the Respondent may well profit by giving Internet users the impression that the disputed domain name belongs to the Complainant.

Further, the evidence shows that the disputed domain name resolves to a website displaying commercial links, some of which are associated with the Complainant's field of activity. Therefore, the Panel finds that by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to his website, by creating a likelihood of confusion with the Complainant's mark.

All the points above lead to the conclusion by this Panel that the Respondent was fully aware of the Complainant when registering the disputed domain name and that the Respondent registered and is using the disputed domain name in bad faith.

The Panel finds that the Complainant has also proved the third element 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 <michelintoys.com> be transferred to the Complainant.

/Alvaro Loureiro Oliveira/

Alvaro Loureiro Oliveira

Sole Panelist

Date: January 20, 2023