

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. Luc Oullet Case No. D2022-4712

1. The Parties

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

The Respondent is Luc Oullet, United States of America (“United States”).

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 8, 2022. On December 8, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 8, 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 (PrivacyGuardian.org llc) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 9, 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 December 13, 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 15, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 4, 2023. The Center received an informal email communication from a third party on December 20, 2022. On January 3, 2023, the Center received another informal email communication from the third party. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 5, 2023.

The Center appointed Reyes Campello Estebaranz as the sole panelist in this matter on January 11, 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 worldwide. It designs and commercializes tires, and provides related services, as well as various digital services, maps, and guides to help enrich trips and travels. To this end, the Complainant launched the “Michelin Guide” in 1920, which began to award stars to fine dining establishments in 1926, and now rates over 30,000 establishments in over 30 territories across three continents. Headquartered in Clermont-Ferrand, France, the Complainant is present in 170 countries, has 124,000 employees, and operates 117 tire manufacturing facilities and sales agencies in 26 countries, including in the United States.

The Complainant owns numerous registered trademarks for the MICHELIN brand, including United States Registration No. 0892045, MICHELIN, registered on June 2, 1970, in class 12; United States Registration No. 4126565, MICHELIN, registered on April 10, 2012, in classes 36, 37 and 39; and International Registration No. 771031, MICHELIN, registered on June 11, 2001, in classes 5, 7, 8, 9, 10, 11, 12, 16, 17, 18, 20, 21, 24, 25, 39, and 42. These trademarks will be hereby collectively referred to as the “MICHELIN mark”.

Prior decisions under the Policy have recognized the widespread use and international well-known character of the MICHELIN mark.¹

The Complainant further owns various domain names related to its MICHELIN mark, including <michelin.com> (registered on December 1, 1993), which resolves to its corporate website in connection with its products and services, provided in English and French languages.

The disputed domain name was registered on October 26, 2022, and it resolves to a basic website in English language that promotes the Registrar’s services at its home page, and includes various sections, namely “View Videos”, “View Tweets”, and “Submit Offer.” Its “Submit Offer” section indicates that the disputed domain name “may be for sale!” and includes a contact form “to submit an offer to purchase” it. This section indicates, “Please use the form below to submit an offer to purchase securemichelin.com. The web site owner will reply to the email address you provide below”. Other sections of the site (“View Videos”, “View Tweets”) do not have any content. This website do not include any information about the owner of the site or that of the disputed domain name.

On November 1, 2022, the Complainant sent a notification to the Registrar requesting the deactivation or blockage of the disputed domain name. The Registrar replied that it only would be able to deactivate the disputed domain name if there would be any evidence of fraudulent activity and advised the Complainant to file a Complaint under the Policy.

¹ See, among others, *Compagnie Générale des Etablissements Michelin v. Louis Chan*, WIPO Case No. [D2020-2579](#), and other cases cited therein; *Compagnie Générale des Etablissements Michelin v. Ramesh Kumar, guide-michelin-centieme*, WIPO Case No. [D2020-2595](#); and *Compagnie Générale des Etablissements Michelin v. Domain Administrator*, WIPO Case No. [D2022-3498](#).

5. Parties' Contentions

A. Complainant

Key contentions of the Complaint may be summarized as follows:

The MICHELIN mark, as well as the Michelin Guide, enjoy worldwide reputation, and they have obtained numerous awards. The MICHELIN mark is the top-selling tire brand worldwide and more than 30 million Michelin Guides have been sold worldwide.

The disputed domain name is confusingly similar to the MICHELIN mark. It imitates the MICHELIN mark with the addition of a letter "I" and the term "secure". It is a case of typosquatting; a common, obvious, or intentional misspelling of the MICHELIN mark. The disputed domain name contains sufficiently recognizable aspects of this mark, and the addition of the term "secure" and the generic Top-Level-Domain ("gTLD") ".com" are insufficient to avoid a finding of confusing similarity.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is not commonly known by the name "michelin", affiliated with the Complainant, authorized or licensed to use the MICHELIN mark. Additionally, the disputed domain name is so confusingly similar to the famous MICHELIN mark that the Respondent cannot reasonably pretend it was intending to develop a legitimate activity through the disputed domain name. Two email servers have been configured on the disputed domain name, so there is a risk that the Respondent is engaged in a phishing scheme.

The disputed domain name was registered and is being used in bad faith. Due to the well-known character of the MICHELIN mark, it is implausible that the Respondent was unaware of the Complainant when it registered the disputed domain name. Any trademark search or any search over the Internet reveals the existence of the Complainant and its trademark. The Respondent knew or should have known of the Complainant's trademark rights. The misspelling and imitation of MICHELIN mark in the disputed domain name corroborates the Respondent's bad faith. The confusion generated by the disputed domain name will result in the diversion of Internet traffic from the Complainant's site to the Respondent's site, suggesting opportunistic bad faith. It is more likely than not, that the Respondent's primary motive in registering and using the disputed domain name was to capitalize on or otherwise take advantage of the Complainants' trademark rights, and to prevent the Complainant from reflecting its trademarks in the disputed domain name. In addition, email servers have been configured on the disputed domain name, so there is a risk that the Respondent is engaged in a phishing scheme.

The Complainant has cited previous decisions under the Policy as well as various paragraphs of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)") that it considers supportive of its position, and requests the transfer of the disputed domain name.

B. Respondent

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

A third party forwarded various informal communications to the Center, indicating that it had received Written Notice of the Complaint, but was not related to the Respondent or to the disputed domain name.

6. Discussion and Findings

The Complainant has made the relevant assertions as required by the Policy and the dispute is properly within the scope of the Policy. The Panel has authority to decide the dispute examining the three elements in paragraph 4(a) of the Policy, taking into consideration all of the relevant evidence, annexed material and allegations, and performing some limited independent research under the general powers of the Panel articulated, *inter alia*, in paragraph 10 of the Rules.

A. Identical or Confusingly Similar

The Complainant indisputably has rights in the registered trademark MICHELIN, both by virtue of its trademark registrations and as a result of the continuous use and reputation of this mark.

The disputed domain name reproduces the MICHELIN mark, preceded by the term “secure” and including an additional letter “l” in the term “michelin” (“michellin”), which may be considered a common, obvious, or intentional misspelling of the trademark. The MICHELIN mark is recognizable in the disputed domain name, and the gTLD “.com” is a technical requirement, generally disregarded for the purpose of the analysis of the confusing similarity. See sections 1.7, 1.8, 1.9, and 1.11 of the [WIPO Overview 3.0](#).

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the Complainant’s trademark, and the first element of the Policy under paragraph 4(a)(i) has been satisfied.

B. Rights or Legitimate Interests

Although the Complainant bears the ultimate burden of establishing all three elements of paragraph 4(a) of the Policy, UDRP panels have recognized that this could result in the often impossible task of proving a negative, requiring information that is primarily if not exclusively within the Respondent’s knowledge. Thus, the consensus view is that paragraph 4(c) of the Policy shifts to the Respondent the burden of coming forward with evidence of rights or legitimate interests in the disputed domain name, once the Complainant has made a *prima facie* showing indicating the absence of such rights or legitimate interests.

The applicable standard of proof in UDRP cases is the “balance of probabilities” or “preponderance of the evidence”, being the Panel prepared to draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2 of the [WIPO Overview 3.0](#).

The Complainant’s assertions and evidence effectively shift the burden to the Respondent of producing evidence of rights or legitimate interests in the disputed domain name, providing the circumstances of paragraph 4(c) of the Policy, without limitation, in order to rebut the Complainant’s *prima facie* case. However, the Respondent has not replied to the Complainant’s contentions, not providing any explanation or evidence of rights or legitimate interests in the disputed domain name.

The Panel considers that there is no evidence in the record suggesting that the Respondent has rights or legitimate interests in the disputed domain name. Nothing in the record suggests that the Complainant has authorized, licensed, or otherwise permitted the Respondent to use the MICHELIN mark. The Parties have no business relationship, and the Panel finds that the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name.

The Panel considers that, as the disputed domain name generates an affiliation with the Complainant and its trademark, the use of the disputed domain name cannot be considered a *bona fide* offering of goods or services under the Policy. Moreover, the disputed domain name incorporates the Complainant’s trademark in its entirety with a single misspelling (duplicating its letter “l”), which may be considered a common, obvious, or intentional misspelling, that in this case tends to suggest an attempt to falsely imply affiliation or otherwise take advantage of the famous MICHELIN mark.

The Panel further notes that there is no evidence that the Respondent is commonly known by the disputed domain name or by any name similar to it, as the Respondent’s name (as revealed by the Registrar’s verification) does not include the terms “secure” and/or “michellin”.

Therefore, the Panel finds that nothing on the record before it would support a finding that the Respondent has any rights or legitimate interests in the disputed domain name.

It is further remarkable the Respondent has chosen not to reply to the Complaint, not providing any explanation connected to the circumstances included in paragraph 4(c) of the Policy, or any other that may be considered as a fair use or legitimate interests in the disputed domain name.

The Panel, therefore, concludes that the Respondent has not produced evidence to rebut the Complainant's *prima facie* case, and the cumulative facts and circumstances point to the Respondent lacking any rights or legitimate interests in the disputed domain name. Therefore, the second element of the Policy under paragraph 4(a)(ii) has been established.

C. Registered and Used in Bad Faith

The Policy, paragraph 4(a)(iii), requires that the Complainant establish that the disputed domain name has been registered and is being used in bad faith.

The applicable standard of proof is, likewise, the “balance of probabilities” or “preponderance of the evidence”, being the Panel prepared to draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2, [WIPO Overview 3.0](#).

The Panel considers that the cumulative circumstances of this case point to bad faith registration and use of the disputed domain name.

The MICHELIN mark is well-known and internationally used, including in the United States where the Respondent is located according to the Registrar verification.

The MICHELIN mark has been extensively used over the Internet for decades and developed an internationally well-known character, which has been recognized in prior decisions under the Policy.

The Panel further notes that the disputed domain name incorporates the MICHELIN mark in its entirety, introducing an obvious misspelling (duplicating its letter “l”), which intrinsically creates a likelihood of confusion and points to an intention to confuse Internet users seeking or expecting the Complainant. The Panel finds that this is a clear case of typosquatting.

It is further to be noted that the Respondent has not offered any explanation of any rights or legitimate interests in the disputed domain name and has not come forward to deny the Complainant's assertions of bad faith, choosing not to reply to the Complaint.

Therefore, on the balance of probabilities, taking into consideration the cumulative circumstances of this case, the Panel considers that the disputed domain name was registered targeting the Complainant and its famous MICHELIN mark with the intention of taking unfair advantage of, abusing, or otherwise engaging in behavior detrimental to the MICHELIN mark. The Panel finds that, on the balance of probabilities, the disputed domain name was registered and is being used in bad faith.

The Panel further finds that, taking into consideration the content of the website linked to the disputed domain name, it is probable that the Respondent had the intention of transferring the disputed domain name for valuable consideration in excess of its documented out-of-pocket costs.

Additionally, as various email servers have been configured on the disputed domain name, the Panel agrees with the Complainant that there is a risk that the Respondent might be engaged in, or might have an intention to engage in some type of phishing scheme.

All of the above-mentioned circumstances lead the Panel to conclude that the disputed domain name was registered and is being used in bad faith. Accordingly, the Panel concludes that the Complainant has met its burden of establishing that the Respondent registered and is using the disputed domain name in bad faith under 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 <securemichellin.com> be transferred to the Complainant.

/Reyes Campello Estebarez/

Reyes Campello Estebarez

Sole Panelist

Date: January 20, 2023