

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. Carolina Rodrigues,
Fundacion Comercio Electronico
Case No. D2023-1398

1. The Parties

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

Respondent is Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

2. The Domain Name and Registrar

The disputed domain name <michelinmarkets.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 March 31, 2023. On March 31, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 31, 2023, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to Complainant on April 4, 2023, 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 April 6, 2023.

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 Respondent of the Complaint, and the proceedings commenced on April 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 4, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on May 9, 2023.

The Center appointed Jeffrey D. Steinhardt as sole panelist in this matter on June 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

Complainant is incorporated in France. From its inception in the nineteenth century, Complainant has become a leading worldwide tire manufacturer. Complainant also provides a range of maps, guides and digital services under the MICHELIN brand.

Complainant owns a large number of registrations for its well-known MICHELIN marks, including, for example United States Registration No. 5775734, registered on June 11, 2019, and European Union Trademark No. 013558366, registered on April 17, 2015.

The disputed domain name was registered on February 7, 2023 and resolves to a parking page with what appear to be links to commercial third-party websites.

5. Parties' Contentions

A. Complainant

Complainant alleges that it is present in 171 countries, has 114,000 employees and operates 69 tire manufacturing facilities worldwide.

Complainant avers that the webpage to which the disputed domain name routes uses a name that fully incorporates the well-known MICHELIN mark to display commercial links to third-party websites related to investing and finance. Complainant further avers that email servers are configured on the disputed domain name, permitting its potential use for a phishing scheme.

Complainant alleges that it sent a cease-and-desist letter via the Registrar, and that despite sending several reminders, never received a response from Respondent.¹

Summarizing its legal contentions, Complainant alleges that (1) the disputed domain name is confusingly similar to Complainant's MICHELIN trademarks, (2) Respondent has no rights or legitimate interests in the disputed domain name, and (3) the disputed domain name was registered and is being used in bad faith, all in violation of the Policy.

On the foregoing basis, Complainant requests transfer of the disputed domain name.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

The Rules require the Panel to decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules, and any rules and principles of law that it deems applicable. Rules, paragraph 15(a). Complainant must establish each element of paragraph 4(a) of the Policy, namely:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

¹ The Complaint annexes copies of the email cease and desist letter and reminders.

Complainant must establish these elements even if Respondent does not submit a response. See, e.g., *The Vanguard Group, Inc. v. Lorna Kang*, WIPO Case No. [D2002-1064](#); WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.3. In the absence of a Response, the Panel may also accept as true the reasonable factual allegations in the Complaint. See, e.g., *ThyssenKrupp USA, Inc. v. Richard Giardini*, WIPO Case No. [D2001-1425](#) (citing *Talk City, Inc. v. Michael Robertson*, WIPO Case No. [D2000-0009](#)).

A. Identical or Confusingly Similar

The Panel agrees with Complainant's allegation that the disputed domain name is confusingly similar to Complainant's MICHELIN mark.

UDRP panels commonly disregard Top-Level Domains ("TLDs") in determining whether a disputed domain name is identical or confusingly similar to a complainant's mark. [WIPO Overview 3.0](#), section 1.11.1.

Omitting the ".com" TLD from the disputed domain name, the Panel notes that Complainant's entire MICHELIN mark is included in the disputed domain name, adding only the word "markets". The Panel finds that this addition to Complainant's mark does not prevent a finding of confusing similarity. See, e.g., [WIPO Overview 3.0](#), section 1.7 (where a domain name incorporates the entirety of a trademark, the domain name will normally be considered by UDRP panels to be confusingly similar); *id.*, 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.").

The Panel therefore concludes that the first element of paragraph 4(a) of the Policy is satisfied.

B. Rights or Legitimate Interests

The Panel also concludes that Respondent has no rights or legitimate interests in the disputed domain name.

The Policy contains a non-exhaustive list of circumstances that may demonstrate when a respondent has rights or legitimate interests in a domain name. The list includes: (1) using the domain name in connection with a *bona fide* offering of goods and services; (2) being commonly known by the domain name; or (3) making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers. Policy, paragraphs 4(c)(i) – (iii).

A complainant must show a *prima facie* case that a respondent lacks rights or legitimate interests in a disputed domain name, after which the burden of rebuttal passes to the respondent. See, e.g., [WIPO Overview 3.0](#), section 2.1. The absence of rights or legitimate interests is established if a complainant makes out a *prima facie* case and the respondent enters no response. *Id.*

Complainant alleges that Respondent is not commonly known by the disputed domain name and that Respondent has no rights or authorization to use Complainant's MICHELIN marks. In the absence of a Response, the Panel accepts these allegations as true.

Complainant has submitted credible evidence that the disputed domain name routes to a parking webpage displaying links to third-party websites. The Panel finds that the linking to webpages of third parties constitutes commercial use, which eliminates the possibility of legitimate noncommercial or fair use without intent for commercial gain. See, e.g., *The Bear Stearns Companies Inc. v. Darryl Pope*, WIPO Case No. [D2007-0593](#) ("[t]he Panel is free to infer that Respondent is likely receiving some pecuniary benefit [...] in consideration of directing traffic to that site" (citing *COMSAT Corporation v. Ronald Isaacs*, WIPO Case No. [D2004-1082](#))). *Fat Face Holdings Ltd v. Belize Domain WHOIS Service Lt*, WIPO Case No. [D2007-0626](#); *Sanofi-aventis v. Montanya Ltd*, WIPO Case No. [D2006-1079](#).

Since the webpage to which the disputed domain name routes is completely unrelated to Complainant's business associated with the MICHELIN marks, while the disputed domain name reproduces the well-known MICHELIN mark in its entirety, the Panel further concludes that there is not even a possibility that Respondent is making a *bona fide* offering in the sense of Policy, paragraph 4(c)(i).

The Panel finds that Complainant has established a *prima facie* case that Respondent lacks rights or legitimate interests. Refraining from submitting a response, Respondent fails to contradict or rebut the *prima facie* case.

The Panel rules therefore that Complainant has established the second element of paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that the third element of paragraph 4(a) of the Policy, bad faith registration and bad faith use, is also established.

Respondent is no stranger to proceedings under the Policy. Over 140 UDRP cases have been filed against Respondent with the Center over the past eleven years for abusive domain name registration, in some instances even for domain names that also included the MICHELIN mark. *E.g.*, *Compagnie Générale des Etablissements Michelin v. Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2023-1402](#) ("the Respondent is a serial cyber squatter"); *Compagnie Générale des Etablissements Michelin v. Registration Private, Domains By Proxy, LLC/Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2022-2318](#); *Compagnie Générale des Etablissements Michelin v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2021-2179](#).

The Panel finds that this pattern of conduct by Respondent is extremely strong evidence of bad faith under Policy paragraph 4(b)(ii).

The Panel also finds that Respondent deliberately attempted to attract Internet users to its website for commercial gain, by creating a likelihood of confusion with Complainant's marks. This is further evidence of bad faith. Policy, paragraph 4(b)(iv). See, *e.g.*, *L'Oréal, Biotherm, Lancôme Parfums et Beauté & Cie v. Unasi, Inc.*, WIPO Case No. [D2005-0623](#).

The record shows that Respondent registered the disputed domain name significantly after Complainant established its rights in the MICHELIN marks. "[T]he mere registration of a domain name that is identical or confusingly similar (particularly domain names . . . incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith." [WIPO Overview 3.0](#), section 4.1.2. Having refrained from submitting a response to the Complaint, Respondent has failed to contradict that presumption.

Respondent's failure to submit a response to Complainant's cease and desist letter and to the Complaint and the failure to provide accurate contact details as required by Respondent's agreement with the Registrar² are cumulative evidence of use in bad faith.³

The Panel holds therefore that Respondent registered and used the disputed domain name in bad faith, thus, establishing the third element under paragraph 4(a) of the Policy.⁴

² Notification of the Complaint by courier was not possible using the faulty registrant address details provided by Respondent.

³ The Complaint also contains allegations and evidence that the disputed domain name is linked to active MX records. From this, the Panel infers that Respondent has used or intends to use the confusingly similar disputed domain name for email communications to disrupt Complainant's business. This also supports a finding of bad faith under Policy paragraph 4(b)(iii).

⁴ In light of the many circumstances supporting the Panel's rulings on bad faith, the Panel need not address Complainant's further allegation that Respondent's use of a privacy registration service also establishes bad faith under Policy, paragraph 4(b).

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 <michelinmarkets.com> be transferred to Complainant.

/Jeffrey D. Steinhardt/

Jeffrey D. Steinhardt

Sole Panelist

Date: June 19, 2023