

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. Carolina Rodrigues,
Fundacion Comercio Electronico
Case No. D2023-2187

1. The Parties

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

The Respondent is Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

2. The Domain Name and Registrar

The disputed domain name <workatmichelin.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 May 19, 2023. On May 19, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 19, 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 (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 22, 2023, 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 May 23, 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 the Respondent of the Complaint, and the proceedings commenced on May 24, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 13, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 14, 2023.

The Center appointed Anna Carabelli as the sole panelist in this matter on June 23, 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 one of the leading tire companies worldwide. Headquartered in France, the Complainant is present in 170 countries, has more 124,000 employees and operates 117 tire manufacturing facilities and sales agencies in 26 countries. Further, the Complainant provides digital services and publishes travel guides, maps, and hotel and restaurant guides. In 1920, the Complainant launched the Michelin Guide to help motorists plan their trips, and in 1926 the Michelin Guide began to award stars for fine dining establishments.

The Complainant owns multiple trademark registrations for MICHELIN in various jurisdictions, including Panama where the Respondent is purportedly based. The Complainant's trademark portfolio includes:

- Panama Trademark registration No. 39677, registered on August 4, 1986 in international class 12;
- Panama Trademark registration No. 115414, registered on June 22, 2001, in international class 39;
- Panama Trademark registration No. 39675, registered on August 4, 1986 in class 16;
- International Trademark registration No. 771031, registered on June 11, 2001, in International classes 5, 7, 8, 9, 10, 11, 12, 16, 17, 18, 20, 21, 24, 25, 39 and 42 (hereinafter collectively referred to as the MICHELIN Mark).

The Complainant also owns the domain name <michelin.com> (registered on December 1, 1993) that is used by the Complainant in connection with its official website to promote its services.

The disputed domain name was registered on November 23, 2022.

The uncontested evidence submitted with the Complaint shows that the disputed domain name resolves to a website displaying commercial pay-per-click ("PPC") links, and that an email server has been configured on the disputed domain name. The Respondent has been the subject of several UDRP proceedings for registering domain names reproducing well-known trademarks.

The Complainant sent a cease-and-desist letter to the Respondent via the Registrar on January 9, 2023, asserting its trademark rights and asking the Respondent to transfer the disputed domain name free of charge to the Complainant. The Respondent did not reply to the Complainant's letter.

5. Parties' Contentions

A. Complainant

The Complainant submits and contends that:

- The disputed domain name is confusingly similar to the MICHELIN Mark in which the Complainant has rights. In this regard, the Complainant notes that the disputed domain name entirely incorporates the MICHELIN Mark, which is well known internationally and firmly associated with the Complainant, as recognized by previous UDRP panel decisions (*Compagnie Générale des Etablissements Michelin v. Shuitu Chen*, WIPO Case No. [D2016-1924](#); *Compagnie Générale des Etablissements Michelin v. Isaac Goldstein, Hulmiho Ukolen, Poste restante/Domain Admin, Whois protection this company does not own this domain name s.r.o.* WIPO Case No. [D2015-1787](#); *Compagnie Générale des Etablissements Michelin v. Oncu, Ibbrahim Gonullu*, WIPO Case No. [DD2014-1240](#); *Compagnie*

Générale des Etablissements Michelin v. Zhichao Yang, WIPO Case No. [D2013-1418](#); *Compagnie Générale des Etablissements Michelin v. Milan Covac/Privacy-Protect.org*, WIPO Case No. [D2012-0634](#); *Compagnie Générale des Etablissements Michelin v. Vyacheslav Nechaev*, WIPO Case No. [D2012-0384](#); *Compagnie Générale des Etablissements Michelin v. Transure Enterprise Ltd, Host Master/Above.com Domain Privacy*, WIPO Case No. [D2012-0045](#)).

The incorporation of a well-known trademark in its entirety may be sufficient to establish confusing similarity and the addition of the element “work at” does not influence the similarity.

- The Respondent has no rights or legitimate interests in the disputed domain name. The Complainant has not authorized or somehow given consent to the Respondent to register and use the disputed domain name. The disputed domain name directs Internet users to a parking page with PPC links which are likely to generate revenues. In addition, an email server has been configured on the disputed domain name, and there might be a risk that the Respondent is engaged in a phishing scheme. All the above does not represent a *bona fide* offering of goods and services or a noncommercial or fair use of the disputed domain name.
- The disputed domain name was registered in bad faith. The Respondent must have known of the Complainant’s MICHELIN Mark when it registered the disputed domain name. The Complainant’s mark has a strong reputation and is the subject of substantial goodwill, as recognized by previous UDRP decisions. The composition of the disputed domain name, which identically reproduces the Complainant’s mark preceded by the words “work at”, confirms that the Respondent was aware of the Complainant and its trademark.
- The disputed domain name is also used in bad faith to divert Internet users and redirect them to a web page displaying PPC links which are likely to generate revenues. Indeed, the Respondent is taking undue advantage of the Complainant’s MICHELIN Mark to generate profits. The Complainant submits that the disputed domain name is configured with MX records and is therefore capable of email communication. This presents a significant risk that the disputed domain name could be used for fraudulent purposes to steal valuable information from the Complainant’s clients and employees.
- The Respondent’s concealment of its identity by using a proxy service, the Respondent’s failure to respond to the Complainant’s cease and desist letter and the Respondent being a well-known cybersquatter, are also indicative of bad faith.

Based on the above, the Complainant requests that the disputed domain name be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the panel to decide the complaint based on the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Under paragraph 4(a) of the Policy, the complainant must prove each of the following:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the 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.

Paragraph 4(b) of the Policy sets out four illustrative circumstances, which for the purposes of paragraph 4(a)(iii) of the Policy, shall be evidence of registration and use of a domain name in bad faith.

Paragraph 4(c) of the Policy sets out three illustrative circumstances any one of which, if proved by the respondent, shall be evidence of the respondent's rights to or legitimate interests in a disputed domain name for the purpose of paragraph 4(a)(ii) of the Policy above

A. Identical or Confusingly Similar

The Panel finds that the Complainant has established rights over the MICHELIN Mark based on the evidence submitted in the Complaint.

The disputed domain name consists of the Complainant's MICHELIN Mark, preceded by the terms "work at" and followed by the generic top-level domain ("gTLD") ".com".

As highlighted in section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), the addition of a gTLD such as ".com" is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test.

Therefore, the threshold test for confusing similarity typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name (see section 1.7 of the [WIPO Overview 3.0](#)).

The disputed domain name entirely incorporates the Complainant's MICHELIN Mark and this is a sufficient element to establish the first element, as held by previous UDRP panels (e.g., *Banca Mediolanum S.p.A. v. Domains By Proxy, LLC / Marzia Chiarello*, WIPO Case No. [D2020-1955](#); *Virgin Enterprises Limited v. Domains By Proxy LLC, Domainsbyproxy.com / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-1923](#); *Patagonia, Inc. v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2019-1409](#)).

As recorded in section 1.8 of the [WIPO Overview 3.0](#), where the relevant trademark is recognizable within the disputed domain name, the addition of other terms does not prevent a finding of confusing similarity under the first element.

Accordingly, the Panel finds that disputed domain name is confusingly similar to the MICHELIN Mark in which the Complainant has rights. Therefore, the Complainant has established paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(c) of the Policy, a respondent may demonstrate its rights or legitimate interests in a domain name by showing any of the following circumstances, in particular but without limitation:

- (i) before any notice to it of the dispute, its use of, or demonstrable preparation to use the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods and services;
- (ii) it has been commonly known by the domain name, even if it has acquired no trademark or service mark rights;
- (iii) it 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.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, based on the following: (a) the Complainant holds prior rights in the registered and well-known MICHELIN Mark, (b) the Respondent has not been authorized to use the Complainant's mark in any way, and (c) the disputed domain name resolves to a PPC webpage displaying commercial links and such use does not represent a *bona fide* offering of goods and services.

According to section 2.1 of the [WIPO Overview 3.0](#), while the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often-impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

Here the Panel finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. By not submitting a response, the Respondent has failed to invoke any circumstance, which could have demonstrated any rights or legitimate interests in the disputed domain name under paragraph 4(c) of the Policy.

The Complainant has not authorized, licensed or otherwise permitted the Respondent to use its MICHELIN Mark. Nor does the Complainant have any type of business relationship with the Respondent. Given that the disputed domain name consists of the Complainant's mark preceded by the terms "work at", the composition of the disputed domain name carries a risk of implied affiliation with the Complainant, contrary to the fact, which cannot constitute fair use. The Panel also finds that the use of a domain name to host a web page comprising PPC links does not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users. See section 2.9 of the [WIPO Overview 3.0](#).

Based on the above, the Panel concludes that the Complainant has established an un rebutted *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name.

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

C. Registered and Used in Bad Faith

According to paragraph 4(a)(iii) of the Policy, the Complainant must establish that the disputed domain name has been registered and used in bad faith. Paragraph 4(b) of the Policy provides a non-exhaustive list of circumstances indicating bad faith registration and use on the part of a domain name registrant, which includes: "(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location."

In the present proceedings, the Respondent's bad faith registration is established by the fact that the disputed domain name (i) purposefully incorporates the Complainant's MICHELIN Mark and (ii) was registered long after this trademark became well known to consumers. Given the distinctiveness and the well-established reputation of the Complainant's trademark it is not conceivable that the Respondent did not have in mind the Complainant's trademark when registering the disputed domain name. In the Panel's view, the circumstances of the case indicate that the Respondent has registered the disputed domain name with knowledge of the Complainant's trademark, and that the Respondent's primary intent with respect to the disputed domain name is to trade off the value of the Complainant's MICHELIN Mark.

According to the uncontested evidence submitted by the Complainant, the disputed domain name directs

Internet users to a website displaying PPC links to various third party products and services, including links related to employee training and safety management. UDRP panels have found that the use of a domain name to operate a PPC click site may be considered evidence of bad faith, when such use is calculated to attract Internet users to the site in the mistaken belief that they are visiting a site of or associated with the Complainant (see *TTT Moneycorp Limited v. Guiying Huang*, WIPO Case No. [D2016-20130](#); *Credit Industriel et Commercial S.A. v. Richard J.*, WIPO Case No. [D2005-0569](#); *Société Air France v. Bing G Glu*, WIPO Case No. [D2006-0834](#); *Yahoo! Inc. v. Hildegard Gruener*, WIPO Case No. [D2016-2491](#)). Given the confusing similarity between the disputed domain name and the Complainant's MICHELIN Mark, the use of the disputed domain name in connection with a PPC site falls within the example of bad faith registration and use set out at paragraph 4(b)(iv) of the Policy namely that, by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of those websites.

The Respondent's concealment of its identity by using a proxy service, the Respondent's failure to respond to the Complainant's cease and desist letter and the Respondent being a well-known cybersquatter, corroborate the finding of bad faith.

Based on the above, the Panel finds that the Complainant has established also paragraph 4(a)(iii) 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, <workatmichelin.com>, be transferred to the Complainant.

/Anna Carabelli/

Anna Carabelli

Sole Panelist

Date: July 5, 2023