

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. Domain Administrator,
Fundacion Privacy Services LTD
Case No. D2023-2314

1. The Parties

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

The Respondent is Domain Administrator, Fundacion Privacy Services LTD, Panama.

2. The Domain Name and Registrar

The disputed domain name <myportalmichelingroup.com> is registered with Media Elite Holdings Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 29, 2023. On May 30, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 2, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact.

The Center verified that the 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 July 11, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 31, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 1, 2023.

The Center appointed Gökhan Gökçe as the sole panelist in this matter on August 3, 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 Compagnie Générale des Etablissements Michelin (“Michelin”), a tire company, headquartered in France, which designs, develops, and distributes tires, provides digital services, maps and guides for trips and travels, and develops materials for the travel industry. Complainant is present in 170 countries, with over 124,000 employees and operates 117 tire manufacturing facilities and sales agencies in 26 countries, including the United States of America.

The Michelin Guide was first launched in 1920 in order to help motorists plan their trips. In 1926, the guide began to award stars for fine dining establishments and later, the Michelin Guide included a list of hotels in Paris, lists of restaurants according to specific categories, without paid-for advertisements in the guide. The guide now rates over 30,000 establishments across three continents, with over 30 million Michelin Guides sold worldwide.

Complainant owns numerous registered MICHELIN trademarks around the world, including:

- Panama trademark “MICHELIN” No. 39677, dated September 30, 1985, duly renewed and covering goods in class 12;
- Panama trademark “MICHELIN” No. 115414, dated June 22, 2001, duly renewed and covering services in class 39;
- Panama trademark “MICHELIN” No. 39675, dated September 9, 1985, duly renewed and covering goods in class 16.
- International Trademark MICHELIN No. 771031, designating among others China, Egypt, Spain, Morocco, Russian Federation, Singapore, dated June 11, 2001, duly renewed since then and covering goods and services in classes 5, 7, 8, 9, 10, 11, 12, 16, 17, 18, 20, 21, 24, 25, 39, 42.

The Complainant has also been owning and operating its website at “michelin.com” since 1993.

The disputed domain name was registered on January 26, 2023. The Complainant submitted evidence (Annex 1 to the Complaint) which shows that the disputed domain name pointed to a parking page displaying various sponsored links, with an email server configured on it.

On February 7, 2023, the Complainant sent a cease-and-desist letter and several reminders (Annex 6 to the Complaint) to the Respondent through the Registrar, without receiving any response.

5. Parties’ Contentions

A. Complainant

The Complainant requests the transfer of the disputed domain name.

The Complainant is of the opinion that the disputed domain name is identical to its MICHELIN trademark.

The Complainant argues that the disputed domain name reproduces entirely Complainant’s trademark MICHELIN associated with the terms “my portal” and “group”. The Complainant is of the opinion that the addition of these nondistinctive elements does not negate the confusing similarity with its MICHELIN trademark.

The Complainant alleges that the Respondent lacks rights or legitimate interests in the disputed domain name, that, so far as the Complainant is aware, the Respondent is not generally known by the disputed

domain name, and the Complainant has not authorized the Respondent to use its MICHELIN trademark in connection with registration of a domain name, or otherwise.

Finally, the Complainant submits that the Complainant is well known throughout the world, and the Respondent must have been aware of the Complainant's trademark when the Respondent registered the disputed domain name. Furthermore, the Complainant's MICHELIN trademark registrations predate the registration date of the disputed domain name. Therefore, it is argued that the Respondent has 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

Paragraph 15(a) of the Rules requires the Panel to decide a complaint based on the statements and documents submitted 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 bears the burden of showing:

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

Paragraph 4(a) of the Policy states that the Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complainant's contentions. *Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

However, concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See, section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

It is further noted that the Panel has taken note of the consensus views of panels as captured in the [WIPO Overview 3.0](#).

A. Identical or Confusingly Similar

Ownership of a trademark registration is generally sufficient evidence that a complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. See [WIPO Overview 3.0](#), section 1.2.1.

Complainant provided evidence of its rights in the MICHELIN trademarks, as noted above. Complainant has also submitted evidence, which supports that the MICHELIN trademarks are widely known and a source identifier of Complainant's products and services. Complainant has therefore proven that it has the requisite rights in the MICHELIN trademarks.

Regarding the addition of the terms "my portal" and "group", the Panel notes that it is now well established that the addition of other terms, whether descriptive or geographical or otherwise (including letters) to a domain name does not prevent a finding of confusing similarity between the disputed domain name and the trademark (see, e.g., *Aventis Pharma SA., Aventis Pharma Deutschland GmbH v. Jonathan Valicenti*, WIPO Case No. [D2005-0037](#); *Red Bull GmbH v. Chai Larbthanasub*, WIPO Case No. [D2003-0709](#); *America*

Online, Inc. v. Dolphin@Heart, WIPO Case No. [D2000-0713](#)). The addition of the terms “my portal” and “group” do not therefore prevent the disputed domain name from being confusingly similar to the Complainant’s trademark. See [WIPO Overview 3.0](#), section 1.8.

Finally, the addition of the generic Top-Level Domain (“gTLD”) such as “.com” in a domain name is technically required. Thus, it is well established that such element may typically be disregarded when assessing whether a domain name is identical or confusingly similar to a trademark. See *Proactiva Medio Ambiente, S.A. v. Proactiva*, WIPO Case No. [D2012-0182](#) and [WIPO Overview 3.0](#), section 1.11.1.

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

B. Rights or Legitimate Interests

The Panel further finds that the Respondent has failed to demonstrate any rights or legitimate interests in the disputed domain name.

While the burden of proof on this element remains with the complainant, previous UDRP panels have recognized that this would result in the often-impossible task of proving a negative, in particular as the evidence in this regard is often primarily within the knowledge of the respondent. Therefore, the Panel agrees with prior UDRP panels that the Complainant is required to make out a *prima facie* case before the burden of production of evidence shifts to the Respondent to show that it has rights or legitimate interests in the disputed domain name in order to meet the requirements of paragraph 4(a)(ii) of the Policy. See *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#).

The Panel finds that the Complainant has satisfied this requirement, while the Respondent has failed to file any evidence or make any convincing argument to demonstrate rights or legitimate interests in the disputed domain name according to the Policy, paragraphs 4(a)(ii) and 4(c).

In its Complaint, the Complainant has provided uncontested *prima facie* evidence that the Respondent has no right or legitimate interest to use the Complainant’s trademarks in a confusingly similar way within the disputed domain name.

There is also no indication in the current record that the Respondent is commonly known by the disputed domain name. Furthermore, the Respondent has failed to demonstrate any of the other non-exclusive circumstances evidencing rights or legitimate interests under the Policy, paragraph 4(c) or other evidence of rights or legitimate interests in the disputed domain name.

Additionally, the Complainant states that the Respondent never answered the Complainant’s cease-and-desist letter despite several reminders. UDRP panels have repeatedly stated that when respondents do not avail themselves of their rights to respond to complainants, such can support, in appropriate circumstances, an inference that the respondents have no rights or legitimate interest in the disputed domain name.

Therefore, the Panel finds that the Complainant has established element 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that Complainant provided ample evidence to show that registration and use of the MICHELIN trademarks long predate the registration of the disputed domain name. Complainant is also well established and known. Indeed, the record shows that Complainant’s MICHELIN trademarks and related products and services are widely known and recognized. Therefore, noting also the use of the additional terms “my” and “portal”, Respondent was likely aware of the MICHELIN trademarks when it registered the disputed domain name, or knew or should have known that the disputed domain name was confusingly similar to Complainant’s trademarks. See [WIPO Overview 3.0](#), section 3.2.2; see also *TTT Moneycorp Limited v. Privacy Gods / Privacy Gods Limited*, WIPO Case No. [D2016-1973](#).

The fact that the Respondent used a privacy shield for registration of the disputed domain name and did not file any explanation how he chose this disputed domain name in good faith are further elements of bad faith as found by earlier panels, see *BOUYGUES v. Chengzhang, Lu Ciagao*, WIPO Case No. [D2007-1325](#)), *Schering Corporation v. Name Redacted*, WIPO Case No. [D2012-0729](#) and *TTT Moneycorp Limited. v. Diverse Communications*, WIPO Case No. [D2001-0725](#).

Additionally, the Respondent attracts users for commercial gain by displaying third party pay-per-click (“PPC”) links on the landing page to which the disputed domain name initially resolved. Respondent uses the disputed domain name to direct Internet users to a webpage displaying various commercial links. In this latter case, numerous Panels have previously considered that this behavior was an additional proof of bad faith. Thus, the Panel concludes that such conduct constitutes bad faith. See *Fox News Network, LLC v. Warren Reid*, WIPO Case No. [D2002-1085](#); *Volvo Trademark Holding AB v. Unasi, Inc.*, WIPO Case No. [D2005-0556](#); *Lewis Black v. Burke Advertising, LLC*, WIPO Case No. [D2006-1128](#).

Finally, the lack of response by the Respondent to the cease-and-desist letter (and the present Complaint) sent by the Complainant supports a finding of bad faith. Past UDRP panels have held that failure to respond to a cease-and-desist letter may be considered a factor in finding bad faith registration and use of a domain name. See *Encyclopedia Britannica, Inc. v. John Zuccarini and The Cupcake Patrol a/ka Country Walk a/k/a Cupcake Party*, WIPO Case No. [D2000-0330](#).

Therefore, the Panel finds that the Complainant has established element 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, <myportalmichelingroup.com> be transferred to the Complainant.

/Gökhan Gökçe/

Gökhan Gökçe

Sole Panelist

Date: August 9, 2023