

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. Jason Toms
Case No. D2024-0055

1. The Parties

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

The Respondent is Jason Toms, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <michelinreview.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 January 8, 2024. On January 8, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 8, 2024, 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 January 17, 2024, 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 January 18, 2024.

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 January 22, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 11, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 13, 2024.

The Center appointed Alissia Shchichka as the sole panelist in this matter on February 16, 2024. 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 global leader in the tire industry, based in Clermont-Ferrand, France. Operating in 170 countries with over 124,000 employees and having 117 tire manufacturing facilities worldwide, the Complainant specializes in tire design and distribution. Additionally, the Complainant offers digital services, maps, guides, and advanced materials that cater to the mobility industry. Beyond its significant presence in the automotive sector, the Complainant is well known for its Michelin Guide to award stars for fine dining establishments.

The Complainant has evidenced to be the registered owner of numerous trademark registrations, including, but not limited, to the following:

- International trademark registration No. 1,254, 506, registered on December 10, 2014, for the word mark MICHELIN, in classes 9, 35, 38, 39, 41, and 42;
- International trademark registration No. 1,713,161, registered on June 13, 2022, for the word mark MICHELIN, in classes 6, 7, 9, 12, 16, 20, 35, 37, 39, 41, and 42;
- European Union trademark registration No. 013558366, registered on April 17, 2015, for the word mark MICHELIN, in classes 9, 35, 38, 39, 41, and 42.

The Complainant is also the owner of the domain names <michelin.com>, registered on December 1, 1993, and <michelinreviews.com>, registered on February 11, 2023.

The above trademarks and domain names were registered prior to the registration of the disputed domain name, which was registered on September 22, 2023. The disputed domain name is currently used for a registrar parking page featuring pay-per-click (“PPC”) links redirecting to websites of unrelated third parties operating in the same sector as the Complainant.

The Respondent, according to the disclosed Whois information for the disputed domain name, is located in the United States.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant asserts that the MICHELIN trademark has achieved global recognition and is a well-known trademark.

According to the Complainant, the disputed domain name is confusingly similar to the Complainant’s trademark MICHELIN as it incorporates the entire trademark. The addition of the generic term “review” to the MICHELIN trademark does not alter the overall impression that the disputed domain name is associated with the Complainant’s trademark or prevent the confusing similarity between the disputed domain name and the Complainant’s trademark. On the contrary, this term increases the likelihood of confusion since it directly targets the Complainant’s official domain name <michelinreviews.com>. In respect of the generic Top-Level Domain (“gTLD”) “.com”, which forms part of the disputed domain name, the Complainant requests that the Panel disregard it under the first element as it is a standard registration requirement.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name since (1) the Complainant is not affiliated with the Respondent and he has never licensed or otherwise authorized the Respondent to apply to register the disputed domain name; (2) the Respondent is not commonly known by the disputed domain name; (3) the Respondent has not used or prepared to use the disputed domain name in connection with a bona fide offering of goods or services, and; (4) the Respondent's use of a privacy shield service further indicates an attempt to conceal identity and evade communication with the Complainant.

Finally, the Complainant argues that the Respondent has registered and is using the disputed domain name in bad faith since: (1) the Complainant's trademarks significantly predate the registration of the disputed domain name and the Complainant's MICHELIN trademark is well known and widely used, indicating that the Respondent knew about the Complainant's trademark; (2) the Respondent's use of the disputed domain name in connection with the PPC parking website demonstrates that the Respondent knowingly targeted the Complainant's prior registered trademark to generate traffic to the disputed domain name and gain financial benefit by leveraging the reputation of the Complainant's trademark.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant carries the burden of proving:

- (i) that the disputed domain name is identical or confusingly similar to 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.

The Respondent's default in the case at hand does not automatically result in a decision in favor of the Complainant, however, paragraph 5(f) of the Rules provides that if the Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the Complaint.

Further, according to paragraph 14(b) of the Rules, the Panel may draw such inferences from the Respondent's failure to submit a response as it considers appropriate.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other term, here, “review”, may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name.

The Complainant has confirmed that the Respondent is not affiliated with the Complainant, or otherwise authorized or licensed to use the MICHELIN trademarks or to seek registration of any domain name incorporating the trademarks. The Respondent is also not known to be associated with the MICHELIN trademarks, and there is no evidence showing that the Respondent has been commonly known by the disputed domain name. [WIPO Overview 3.0](#), section 2.3.

Based on the available record, the Panel finds that the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain, to misleadingly divert consumers or to tarnish the trademark or service mark at issue. [WIPO Overview 3.0](#), section 2.4.

Indeed, the Respondent so far obviously has neither used the disputed domain name for a bona fide offering of goods or services nor for a legitimate noncommercial or fair purpose, but merely has used it for a parking page featuring PPC links. Given that the disputed domain name consists of the Complainant’s well-known MICHELIN trademark combined with the term “review”, which could refer to products reviews, tire evaluations, comparisons, or other similar materials coming from or affiliated to the Complainant, but also could cause confusion with the Complainant’s domain name < MichelinReviews.com >, such use of the disputed domain name does not represent a bona fide offering because it capitalizes on the reputation and goodwill of the Complainant’s trademark. [WIPO Overview 3.0](#), section 2.9.

Finally, the Panel also notes that the composition of the disputed domain name, carries a risk of implied affiliation or suggests sponsorship and/or endorsement by the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

Accordingly, the Complainant has provided evidence supporting its prima facie claim that the Respondent lacks any rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Therefore, the Panel concludes that the Respondent does not have any rights or legitimate interests in the disputed domain name and the Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

The Panel finds that the Complainant has established the second element of the Policy.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

On the issue of registration, the Panel observes that the Complainant's rights to the well-known MICHELIN trademarks substantially precede the Respondent's registration of the disputed domain name. Consequently, the Respondent knew or should have known of the Complainant's trademarks at the time of registering the disputed domain name. [WIPO Overview 3.0](#), section 3.2.2.

Further, the mere registration of the disputed domain name that is confusingly similar to the Complainant's well-known trademarks by the Respondent, who is unaffiliated with the Complainant, can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

On the issue of use, the disputed domain name redirects visitors to a PPC website displaying a variety of links leading to third party active websites. These websites are not affiliated with the Complainant but are related to the Complainant's business. This is evidently done with the purpose of generating PPC revenues. Therefore, the Panel finds that the Respondent has intentionally sought to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's MICHELIN trademark regarding the source, sponsorship, affiliation, or endorsement of the website. Consequently, this constitutes a bad-faith use of the disputed domain name. [WIPO Overview 3.0](#), section, 3.5.

In this context, the Panel also attaches significance to the fact that the Respondent did not file any Response, as well as to the Respondent's use of a privacy service. The Panel finds that, in the circumstances of this case, the Respondent's registration and use of the disputed domain name constitute bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

The Panel finds that the Complainant has established 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 <michelinreview.com> be transferred to the Complainant.

/Alissia Shchichka/

Alissia Shchichka

Sole Panelist

Date: March 1, 2024