

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. Jerusha Frost
Case No. D2024-0327

1. The Parties

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

The Respondent is Jerusha Frost, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <michelinpuzzles.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 25, 2024. On January 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 26, 2024, the Registrar transmitted by email to the Center its verification disclosing the 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 29, 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 30, 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 31, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 20, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 27, 2024.

On February 28, 2024, the Respondent communicated to the Center in response to the Notification of Respondent Default. The Center acknowledged receipt of the email communication. On March 4, 2024, the Respondent wrote an email communication to the Center again.

The Center appointed Knud Wallberg as the sole panelist in this matter on March 6, 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 the world's leading tire company, which also provides digital services, maps, guides, and develops high technology materials that serve the mobility industry. The Complainant is headquartered in Clermont-Ferrand, France, and is present in 170 countries. The Complainant has more than 124,000 employees and operates 117 tire manufacturing facilities and sales agencies in 26 countries, including in the United States.

The Complainant owns numerous MICHELIN trademark registrations around the world including the International trademark No. 771031 MICHELIN, dated June 11, 2001, duly renewed and covering goods and services in classes 5, 7, 8, 9, 10, 11, 12, 16, 17, 18, 20, 21, 24, 25, 39, and 42, and designating among others: China, the Russian Federation, Iceland, Spain, Ukraine, Singapore, and Viet Nam; international trademark No. 1049371 MICHELIN, dated of August 25, 2010, designating inter alia Australia, Egypt, Republic of Korea, the Russian Federation, Singapore, and covering goods in classes 7, 9, and 27; and United States trademark No. 3329924 MICHELIN, dated April 29, 2004, duly renewed and covering services in class 39.

In addition, the Complainant and affiliates operate, among others, domain names reflecting its trademark in order to promote its services including <michelin.com>.

The disputed domain name has previously resolved to a website displaying different commercial links but is currently used for a parking site hosted by the Registrar.

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 contends that the disputed domain name is confusingly similar to the Complainant's trademark MICHELIN since it reproduces the mark in its entirety. The addition of the generic term "puzzles" increases the likelihood of confusion since it can lead Internet users to believe that the domain in question will direct them to the official website endorsed by Michelin, offering its products and services, in particular "Michelin geographical puzzles".

Furthermore, the Respondent is neither affiliated with the Complainant in any way nor has he been authorized by the Complainant to use and register its trademark, or to seek registration of any domain name incorporating said mark. The Respondent has no prior rights or legitimate interest in the disputed domain name nor did the Respondent demonstrate use of, or demonstrable preparations to use, the domain names in connection with a bona fide offering of goods or services. The disputed domain name did thus first resolve to a parking page displaying different commercial links related to Complainant's main field of activity whereas now it points to a registrar's default page.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. The Respondent's reproduction of the renowned MICHELIN trademark in its entirety in the disputed domain name clearly proves that the Respondent was aware of the existence of the Complainant's trademark when he registered the disputed domain name, and the use of the disputed domain name for a website displaying different commercial links related to the Complainant's main field of activity is evidence of bad faith use.

B. Respondent

The Respondent did not reply to the Complainant's contentions. The Respondent wrote two informal emails the Center, one of which stated the following:

"I don't understand your legalese email.

I see that you're disputing a website domain name I purchased. Happy to cancel if that's what you're asking. When I have time I'll email you in copy with Godaddy and you can do what you need to."

The Respondent's first email stated "Hi I'm sorry - what is this about?"

6. Discussion and Findings

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 Panel finds that the disputed domain name is confusingly similar to the Complainant's registered trademark MICHELIN because it contains the mark in its entirety. The addition of the term "puzzles" does not prevent a finding of confusing similarity in the present case. The generic Top-Level Domain ("gTLD") ".com" is typically disregarded under the confusing similarity test.

The Panel finds that the conditions in paragraph 4(a)(i) of the Policy are therefore fulfilled in relation to the disputed domain name.

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 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. Moreover, the Panel finds that the composition of the disputed domain name effectively impersonates or suggests sponsorship or endorsement by the Complainant. See section 2.5.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Given the circumstances of the case, including the evidence on record of the use of the Complainant's trademark MICHELIN, and the distinctive nature of this mark, it is inconceivable to the Panel in the current circumstances that the Respondent registered the disputed domain name without prior knowledge of the Complainant and the Complainant's mark. Further, the Panel finds that the Respondent could not have been unaware of the fact that it chose a domain name, which could attract Internet users in a manner that is likely to create confusion for such users.

The Panel therefore finds that the disputed domain name was registered in bad faith.

The disputed domain name does not resolve to an active webpage, but this does not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding, taking into account the degree of distinctiveness or reputation of the Complainant's mark and the previous use of the disputed domain name for a website displaying different commercial links, at least one of which ("Pneu Hiver France" – translated from French to, "Winter Tires France") related to Complainant's main field of activity website.

Noting that the disputed domain name incorporates the Complainant's distinctive trademark MICHELIN, that no formal Response has been filed, and that there does not appear to be any conceivable good faith use that could be made by the Respondent of the disputed domain name and considering all the facts and evidence of the case, the Panel finds that the requirements of paragraph 4(a)(iii) of the Policy are also fulfilled in this case.

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 <michelinpuzzles.com> be transferred to the Complainant.

/Knud Wallberg/

Knud Wallberg

Sole Panelist

Date: March 24, 2024