

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. pankaj ramoliya,
Electronic

Case No. D2024-0659

1. The Parties

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

The Respondent is pankaj ramoliya, Electronic, India.

2. The Domain Names and Registrar

The disputed domain names <michelinchemicals.com>, <michelincosmetics.com>, and <michelinspice.com> are registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 13, 2024. On February 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On February 13, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names 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 February 16, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint.

On February 19, 2024, the Complainant requested the suspension of the proceeding for 30 days. On February 20, 2024, the Center confirmed that the proceeding is suspended until March 21, 2024. On March 18, 2024, the Complainant requested the reinstitution of the proceeding. On March 20, 2024, the Center reinstituted the proceeding and informed the Parties that the due date for an amendment to the Complaint was March 25, 2024. The Complainant filed an amended Complaint on March 21, 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 March 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 15, 2024. On April 12, 2024, the Respondent requested an extension of the due date for Response. On the same date, the Center granted to the Respondent the automatic four calendar day extension for Response pursuant to paragraph 5(b) of the Rules and informed the Parties that the due date for Response was April 19, 2024. The Response was filed with the Center on April 19, 2024. On April 26, 2024, the Complainant requested the suspension of the proceeding. On April 29, 2024, the Center confirmed that the administrative proceeding is suspended until May 29, 2024. On May 21, 2024, the Complainant requested the reinstitution of the proceeding. On May 26, 2024, the Center notified the Parties of the Commencement of Panel Appointment Process.

The Center appointed Assen Alexiev as the sole panelist in this matter on June 14, 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 tire company, established in 1889. It designs, manufactures and markets tires for cars, trucks, motorcycles and airplanes. It is also involved in travel publications, vehicle racing and rallies. In 1920, the Complainant started to publish the annual MICHELIN Guide, which ranks fine dining establishments by awarding “Michelin Stars” to restaurants and hotels around the world. The Complainant has more than 124,000 employees and operates 117 tire manufacturing facilities and sales agencies in 26 countries.

The Complainant is the owner of a number of trademark registrations for “MICHELIN” (the “MICHELIN trademark”), including the following:

- the International trademark MICHELIN with registration No. 771031, registered on June 11, 2001, for goods and services in International Classes 5, 7, 8, 9, 10, 11, 12, 16, 17, 18, 20, 21, 24, 25, 39 and 42; and
- the Indian trademark MICHELIN with registration No. 3308763, registered on July 14, 2016, for services in International Classes 35, 37, 39, 41 and 42.

The Complainant is also the owner of the domain name <michelin.com>, registered on December 1, 1993, which resolves to its official website.

The registration dates of the disputed domain names are the following:

Disputed domain name	Registration date
<michelin spice.com>	February 12, 2023
<michelin chemicals.com>	November 8, 2023
<michelin cosmetics.com>	January 6, 2024

The disputed domain names are currently inactive.

On January 4, 2024, the Respondent registered in India a company named Michelin Foods Private Limited. The Respondent also claims having registered a number of trademarks for MICHELIN in India, but the search in the Indian trademark database¹ actually shows that in January 2024 the Respondent has filed in India eight trademark applications for MICHELIN in various classes of the Nice Classification that have not proceeded to registration yet, and that the Complainant has filed oppositions against them.

¹ Available online at “<https://tmrsearch.ipindia.gov.in/eregister/eregister.aspx>”

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 names.

The Complainant states that the disputed domain names are confusingly similar to its MICHELIN trademark, because they reproduce the trademark in its entirety in combination with the dictionary words "chemicals", "cosmetics" and "spice", which does not preclude a finding of confusing similarity.

According to the Complainant, the Respondent has no rights or legitimate interests in respect of the disputed domain names, because it is not affiliated with the Complainant and has not been authorized by the Complainant to use the MICHELIN trademark or to register domain names incorporating it and is not commonly known by the disputed domain names. The Complainant maintains that the disputed domain names are so confusingly similar to the MICHELIN trademark, whose registration precedes the registration of the disputed domain names by more than 20 years, that the Respondent cannot reasonably pretend it was intending to develop a legitimate activity through them. The Complainant adds that the disputed domain names currently resolve to inactive webpages.

The Complainant contends that the disputed domain names were registered and are being used in bad faith. It submits that it is well-known throughout the world and that it is unlikely that the Respondent was not aware of the Complainant's MICHELIN trademark, which significantly predates the registration of the disputed domain names. According to the Complainant, the composition of the disputed domain names, which identically reproduces the Complainant's MICHELIN trademark associated with dictionary words such as "chemicals", "cosmetics" and "spice" confirms that the Respondent was aware of the Complainant and its trademark, and that it registered the disputed domain names based on the attractiveness of the Complainant's trademark. The Complainant adds that it was the Registrant's duty to verify that their registration would not infringe the rights of any third party before registering the disputed domain names.

The Complainant points out that, considering the worldwide reputation of its MICHELIN trademark, the Respondent must have been aware of the Complainant and of the MICHELIN trademark at the time of registration of the disputed domain names, and registered them based on the notoriety and attractiveness of the Complainant's trademark to divert Internet traffic to the website at the disputed domain names. According to the Complainant, the Respondent's primary motive in registering and using the disputed domain names was to capitalize on or otherwise take advantage of the Complainant's trademark rights, through the creation of initial interest confusion.

The Complainant notes that on November 30, 2023, it sent a cease-and-desist letter to the Respondent requesting the transfer of the disputed domain names but received no response.

B. Respondent

The Respondent contends that the Complainant has not satisfied the elements required under the Policy for a transfer of the disputed domain names.

The Respondent states that it has lawfully established its company under the trade name Michelin Foods Private Limited in India and that it is engaged in the production and trade with food products in the Indian marketplace under the trade name Michelin. The Respondent maintains that it is not using this trademark in bad faith, and claims having purchased the disputed domain names from the Registrar by following the required legal procedure. The Respondent states that it has no intention of using the Complainant's MICHELIN trademark to take advantage of its goodwill and maintains that it had no knowledge of the Complainant when registering the disputed domain names.

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

The Panel finds the MICHELIN trademark is recognizable within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the MICHELIN trademark for the purposes of the standing under Policy. [WIPO Overview 3.0](#), section 1.7. Although the addition of other terms (here, "chemicals", "cosmetics" and "spice") may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain names 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 names. 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 names such as those enumerated in the Policy or otherwise.

The disputed domain names were registered at least 22 years after the Complainant registered its well-known MICHELIN trademark in 2001. They represent combinations of this trademark with dictionary words and have not been actively used yet. In 2024, the Respondent registered a company in India with the name Michelin Foods Private Limited, and claims that this company is active in the business with food products, but provides no evidence that this company actually carries out any activities. [WIPO Overview 3.0](#), section 2.3. If the company indeed carries out any business, the Respondent should be able to submit supporting evidence about this. Again in 2024, the Respondent filed eight trademark applications for MICHELIN in various classes, but these applications have not yet proceeded to registration. The Respondent does not explain how and why it has decided to apply for the registration of three domain names, a company and eight trademarks all containing "Michelin".

Considering all the above, the Panel finds no basis to conclude that the Respondent is commonly known under the disputed domain names or a name corresponding to them, that it has relevant trademark rights or

that it has carried out any bona fide activities under the disputed domain names prior to receiving notice of the dispute. Rather, it appears that the Respondent has registered its company and has applied for registration of eight trademarks containing “Michelin” in an attempt to circumvent the application of the UDRP or otherwise prevent the Complainant’s exercise of its rights, while targeting the Complainant’s MICHELIN trademark in an attempt to profit from its goodwill. [WIPO Overview 3.0](#), section 2.12.2. Such conduct cannot give rise to rights or legitimate interests of the Respondent in the disputed domain names.

The Panel therefore finds the second element of the Policy has been established.

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.

Panels have found that the non-use of a domain name (including a blank or “coming soon” page) would 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 names does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3.

Having reviewed the available record, the Panel notes the distinctiveness and reputation of the Complainant’s MICHELIN trademark, the composition of the disputed domain names, which combine the same trademark with dictionary words, the lack of any evidence of any good-faith activities of the Respondent and its company and of any plausible explanation by the Respondent of its decision to apply for the registration of three domain names, a company and eight trademarks all containing “Michelin”. As discussed in the section on rights and legitimate interests, it appears that through these actions the Respondent has attempted to circumvent the application of the UDRP or otherwise prevent the Complainant’s exercise of its rights. In these circumstances, the Panel finds that the passive holding of the disputed domain names does not prevent a finding of bad faith under the Policy.

The Panel therefore 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 names <michelinchemicals.com>, <michelincosmetics.com>, and <michelinspice.com> be transferred to the Complainant.

/Assen Alexiev/

Assen Alexiev

Sole Panelist

Date: June 28, 2024