

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. miao wen bin
Case No. D2024-0995

1. The Parties

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

The Respondent is miao wen bin, Cambodia.

2. The Domain Name and Registrar

The disputed domain name <michelinf1.com> is registered with Gname.com Pte. Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 6, 2024. On March 6, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 7, 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 (Not disclosed) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 8, 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 March 8, 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 15, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 4, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 5, 2024.

The Center appointed Gary Saposnik as the sole panelist in this matter on April 11, 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 Compagnie Générale des Etablissements Michelin (“Michelin”) is a leading tire company headquartered in France, and present in 170 countries. Founded in 1889, it has more than 124,000 employees, and operates 117 tire manufacturing facilities and sales agencies in 26 countries. The Michelin brand is the top-selling tire brand worldwide.

In 1989, the Complainant had its first representative office in Beijing, and set up its first manufacturing company in China in 1995. It built a factory in China with the total investment of nearly 1.5 billion USD in 2013. It also has an R&D company and many manufacturing and investment service companies in Shanghai. The total investment of the Complainant in China is currently estimated to exceed USD 2 billion, with around 7,000 employees.

The Complainant is the owner of MICHELIN trademarks, including the following registered trademarks:

- Chinese trademark MICHELIN, No. 15961294, registered on March 7, 2016, and covering services in class 35;
- International trademark MICHELIN, No. 1245891, registered on December 10, 2014, and covering services in classes 35, 36, 39, 40, 41, 42, 44, and 45, and designating among others: Australia, India, and New Zealand; and
- International trademark MICHELIN, No. 771031, registered on June 11, 2001, and renewed, 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, Russian Federation, Spain, Ukraine, Singapore, and Viet Nam.

The Complainant is the registrant of the domain name <michelin.com>, registered on December 1, 1993, which resolves to a website promoting its services.

The disputed domain name <michelinf1.com> was registered on August 6, 2023, and resolved towards a Chinese website with adult content, as well as with links to gambling pages, which the Complainant alleges is illegal in China. The Complainant sent a cease-and desist letter on August 21, 2023 to the Respondent, with no response received from the Respondent. Subsequently, the Complainant detected that the subject website was taken down and resolved to a blank page in September 2023. However, the Complainant alleges that the Chinese pornographic website was reconfigured a few days later.

The Complainant sent subsequent notices to the Registrar and hosting company, requesting the deactivation of the subject website, with no response or cooperation by either the Registrar or hosting company. An independent review of the subject website by this Panel revealed that the objectionable content was still present.

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 contains its MICHELIN trademark in its entirety. The Complainant asserts that previous UDRP panels have considered the MICHELIN trademark to be “well-known” or “famous”. The addition of the letter “f” and the number “1” is short for Formula 1, directly targeting the Complainant’s main field of activity. The Complainant alleges a likelihood of confusion, in that the unsuspecting Internet user could assume that the website is related to the Complainant and its various

fields of activity, only to find oneself on a page containing adult content, which defames and damages the Complainant's image and infringes its prior rights.

The Complainant states that the Respondent is neither affiliated with the Complainant in any way nor has been authorized by the Complainant to use and register its trademark, or to seek registration of any domain name incorporating said trademark. The Respondent is not commonly known by the disputed domain name or the name "Michelin".

The Complainant asserts that the Respondent's use of the disputed domain name to resolve to a webpage in Chinese relating to adult content cannot be considered as a use of the disputed domain name in connection with a bona fide offering of goods and services, and the Respondent fails to show any intention of non-commercial or fair use of the disputed domain name. Furthermore, the resolving webpage is extremely prejudicial to the Complainant's renown. The Respondent cannot reasonably pretend it was intending to develop a legitimate activity through the disputed domain name. The confusingly similar disputed domain name constitutes evidence that the Respondent wanted to give an overall impression that the disputed domain name is related to the Complainant and misleadingly divert consumers to its website.

Given the Complainant's goodwill and renown worldwide, and the nature of the disputed domain name being confusingly similar to the Complainant's trademark, the Complainant asserts that it is not possible to conceive a plausible circumstance in which the Respondent could legitimately use the disputed domain name, as it would result in misleading diversion and taking unfair advantage of the Complainant's rights.

The Complainant further asserts that since it is well-known throughout the world, it is unlikely that the Respondent was not aware of the Complainant's rights in the MICHELIN trademark. The composition of the disputed domain name, which reproduces the Complainant's MICHELIN trademark in its entirety further confirms that the Respondent was aware of the Complainant and its trademark and that it registered the disputed domain name based on the attractiveness of the Complainant's trademark, with an intent to divert Internet traffic to its website and obtain commercial gain. Such registration and use of a domain name that is so obviously connected with a well-known trademark by someone with no connection to the trademark suggests opportunistic bad faith.

The Complainant submits that the Respondent is using the disputed domain name to intentionally attract Internet users to its website by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation or endorsement of the services offered on the Respondent's website. Previous UDRP panels have found that in the absence of any license or permission from the complainant to use a widely known trademark, no actual or contemplated bona fide or legitimate use of the domain name could reasonably be claimed.

Additionally, the direction of the disputed domain name towards a Chinese webpage related to adult content, which is allegedly prohibited in China, evidences an intent to misleadingly divert consumers by taking unfair advantage of the goodwill and reputation of the Complainant's MICHELIN trademark.

Finally, the Complainant requests the transfer of the disputed domain name.

B. Respondent

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

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 a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced 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 terms here, "f1", 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 name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8. The term "f1" may refer to "Formula 1", an auto racing field of activity that Complainant is involved in.

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 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.

This Panel finds that there is no evidence that the Respondent has any authorization to use the Complainant's trademark or to register domain names containing the MICHELIN trademark. There is no evidence that the Respondent is commonly known by the disputed domain name. In addition, there is also no evidence that the Respondent is making a noncommercial or fair use of the disputed domain name or that before any notice of the dispute the Respondent has made use of, or demonstrable preparations to use the disputed domain name in connection with a bona fide offering of goods or services.

In this instance, the Complainant has submitted un rebutted evidence that the disputed domain name was being used in connection with a website displaying pornography and gambling related advertisements, none of which refer to MICHELIN. UDRP panels have consistently found that use of a domain name identical or confusingly similar to a trademark to attract or divert Internet traffic to a website featuring pornographic content is not a bona fide use and does not confer rights or legitimate interests in the disputed domain name. *Accolade 2ndMd LLC v. Hallie Kubik*, WIPO Case No. [D2021-1162](#) and *Autodesk, Inc. v. hai qing cai, caihai qing*, WIPO Case No. [D2023-1277](#).

Furthermore, as noted below, this Panel finds that the subject MICHELIN trademark is well-known. Other panels have held that use of a domain name containing a well-known third party trademark for such services may not be in a bona fide offering of goods or services. See, e.g., *Sanofi v. Yansheng zhang, GNAME.COM*

PTE. LTD, WIPO Case No. [D2021-1751](#); and *Tetra Laval Holdings & Finance S.A. v. Johnson Zhang*, WIPO Case No. [D2022-2424](#).

The Panel 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.

In the present case, the Panel notes its agreement with prior UDRP panels that the Complainant has presented evidence that the subject MICHELIN trademark is well-known. The MICHELIN name has been in use by the Complainant for over a century, including a presence in China since 1989. The trademark registrations presented also date back many years prior to the registration of the disputed domain name. With the disputed domain name entailing the Complainant's mark in total, combined with the inclusion of a term related to use of the Complainant's tire brand, it is not conceivable that the Respondent would not have been aware of the Complainant's distinctive and well-known trademark at the time of the registration of the disputed domain name.

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.

The Respondent's use of the disputed domain name was certainly intended to create a likelihood of confusion among Internet users for commercial gain, such as diverting traffic to the Respondent's website, which displayed pornography and gambling advertisements in Chinese. Subsequent to the Complainant sending a cease-and-desist letter, the offending website content was removed, but the website returned to displaying the offending content a short time later. This is further indication of the Respondent's bad faith intent and use. This Panel is in agreement with prior UDRP panels that the use of a domain name to divert traffic to a website displaying pornography constitutes bad faith use. See, e.g., *Sanofi v. Yansheng zhang, GNAME.COM PTE. LTD*, WIPO Case No. [D2021-1751](#); *Tetra Laval Holdings & Finance S.A. v. Johnson Zhang*, WIPO Case No. [D2022-2424](#); and *Valvoline Licensing and Intellectual Property LLC v. Andrei Arhipov*, WIPO Case No. [D2017-2453](#). See also [WIPO Overview 3.0](#), section 3.2.1.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under 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 <michelin1.com> be transferred to the Complainant.

/Gary Saposnik/

Gary Saposnik

Sole Panelist

Date: April 25, 2024