

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. Wei Wei Liu
Case No. D2024-1701

1. The Parties

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

The Respondent is Wei Wei Liu, China.

2. The Domain Name and Registrar

The disputed domain name <michelintruckdigital.com> is registered with DropCatch.com LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 23, 2024. On April 23, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 23, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

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 May 1, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 21, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 24, 2024.

The Center appointed Angelica Lodigiani as the sole panelist in this matter on June 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 a leading tire company with headquarter in France and present in 170 countries. The Complainant employs more than 124,000 people and operates 117 tire manufacturing facilities and sales agencies in 26 countries. The Complainant started operating under the name Michelin in 1889 and in 1891 created the first detachable tire for a bicycle. In 1989, the Complainant opened its first representative office in Beijing and its first manufacturing plant in China in 1995. Currently, the Complainant employs around 7,000 people in China and its total investment in China is estimated to be more than USD 2 billion.

The Complainant is the owner of a worldwide portfolio of MICHELIN registered marks, among which are the following:

- MICHELIN (word), Chinese registration No. 61964386, registered on September 14, 2022, covering goods and services in classes 6, 7, 11, 12, 16, 20, 35, 39, 41 and 42;

- MICHELIN (word), International registration No. 1245891, registered on December 10, 2014, designating various jurisdictions among which are China, Australia, India and New Zealand, covering services in classes 35, 36, 39, 40, 41, 42, 44 and 45;

- MICHELIN (word), International registration No. 771031, registered on June 11, 2001, designating various jurisdictions among which China, Russia, Island, Spain, Ukraine, Singapore and Vietnam, covering goods and services in classes 5, 7, 8, 9, 10, 11, 12, 16, 17, 18, 20, 21, 24, 25, 39 and 42.

The Complainant is also the owner of the domain name "michelin.com", registered on December 1, 1993, which it uses to promote its activity.

The disputed domain name was registered on March 3, 2024, by an individual presumably located in China. The disputed domain name initially resolved to a website in Chinese offering adult content.

The Complainant sent a blocking request to the Registrar of the disputed domain name requesting to put the disputed domain name on ClientHold and deactivate it. The Registrar replied that it could not make any judgement as to whether the disputed domain name was infringing a third party's trademark and advised to forward the request to the hosting provider. The hosting provider did not reply to the Complainant's request. The Complainant also sent a cease-and-desist letters to the Respondent based on its earlier marks, requesting the immediate transfer of the disputed domain name to the Complainant, at no charge. The latter never replied to this cease-and desist-letters. Lastly, the Complainant sent a new notification to the hosting provider requesting the deactivation of the fraudulent website, which was eventually taken down albeit not blocked as originally requested.

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 MICHELIN mark as it reproduces it entirely with the addition of the word "truckdigital", which target the Complainant's main field of activity and cannot prevent a finding of confusing similarity.

The Complainant also maintains that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has no affiliation with the Complainant and the Complainant did not authorize the Respondent to use and register its trademark within the disputed domain name. The Respondent is not commonly known by the disputed domain name. Moreover, the Respondent was not

using and did not make demonstrable preparations to use the disputed domain name in connection with a bona fide offering of goods or services. The disputed domain name resolved to a website in Chinese relating to adult content, which was extremely prejudicial for the Complainant. Such use does not amount to a bona fide use or legitimate fair use of the disputed domain name. Given the high confusing similarity of the disputed domain name with the Complainant's MICHELIN mark and the extensive goodwill and reputation of this mark, the Respondent cannot reasonably pretend that it was intending to develop a legitimate activity through the disputed domain name. Given the composition of the disputed domain name, it is clear that the Respondent's intention was that of giving the overall impression that the disputed domain name was related to the Complainant to misleadingly divert consumers to its website.

Lastly, the Complainant maintains that the disputed domain name was registered and is being used in bad faith. In view of the high renown of the Complainant's mark all over the world, including in China, where the Respondent is presumably located, it is implausible that the Respondent was not aware of the MICHELIN mark when it registered the disputed domain name. Even the composition of the disputed domain name, which entirely reproduces the Complainant's mark, is a clear indication that the Respondent was aware of this mark at that time. A simple search on the trademark registries or on the Internet, using the keyword "michelin", would have revealed results uniquely associated with the Complainant. In light of these circumstances, the Complainant submits that the Respondent registered the disputed domain name to cause confusion among Internet users as to its source, in order to take unfair advantage of the Complainant's goodwill and reputation.

With respect to use in bad faith, the Complainant contends that the Respondent was using the disputed domain name to intentionally attempt to attract Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation or endorsement of the services offered on the Respondent's website. In light of the substantial reputation of the MICHELIN trademark of which the Respondent was clearly aware, it is apparent that the Respondent used the disputed domain name to direct Internet users and generate more traffic on its website. Finally, given the substantial reputation of the Complainant's trademark it is not possible to conceive a plausible circumstance in which the Respondent could legitimately use the dispute domain name, as it would invariably result in misleading diversion and taking unfair advantage of the Complainant's rights.

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. In particular, the Complainant has shown that it owns registered rights over the trademark MICHELIN, which predate the disputed domain name.

Although the addition of other terms here, "truckdigital", 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 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.

The Respondent has no relationship with the Complainant and the Complainant never authorized the Respondent to make use of its MICHELIN trademark in the disputed domain name. Nowhere in the case file is there any evidence that could support of finding that the Respondent is commonly known by the disputed domain name. The Complainant’s mark is distinctive and well known internationally. The disputed domain name incorporates the Complainant’s well-known trademark entirely together with the additional terms “truckdigital”, which refer to part of the Complainant’s activities. Such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. [WIPO Overview 3.0](#), section 2.5.1. The Panel finds that the disputed domain name is misleading as the Internet users looking for the Complainant’s services on the Internet could erroneously believe that the disputed domain name is linked to, or endorsed or sponsored by the Complainant, while in reality it is owned and operated by an unrelated third party.

At the time of the filing of the Complaint, the disputed domain name resolved to a webpage in Chinese featuring adult content. Considering the reputation of the Complainant’s trademark, the use of the disputed domain name tarnishes the MICHELIN mark and does not amount to a bona fide offering of goods or services or to a fair use of the disputed domain name.

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.

The MICHELIN mark enjoys substantial reputation all over the world, including in China where the Respondent is presumably located. Moreover, in the disputed domain name the Complainant’s mark is associated with the terms “truckdigital”, which are linked to the Complainant’s activity. Furthermore, the name “michelin” is quite distinctive and is exclusively associated with the Complainant. It is therefore clear that the Respondent was well aware of the Complainant and of its various MICHELIN marks when it registered the disputed domain name. The registration of a domain name incorporating a third party’s well-known trademark without rights or legitimate interests amounts to registration in bad faith.

With respect to use in bad faith, the Panel notes that the disputed domain name resolved to a website featuring adult content. In light of the high reputation of the MICHELIN trademark, the Panel finds that the Respondent targeted the Complainant's mark to intentionally attempt to attract, for commercial gain, Internet users to the Respondent's website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website.

Further evidence of bad faith lies in the fact that the Respondent failed to reply to the Complainant's cease-and-desist letters.

Accordingly, 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 <michelintruckdigital.com> be transferred to the Complainant.

/Angelica Lodigiani/
Angelica Lodigiani
Sole Panelist
Date: June 15, 2024