

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. Transure Enterprise Ltd
Case No. D2024-2158

1. The Parties

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

The Respondent is Host Master, Transure Enterprise Ltd, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <michelinmall.vip> is registered with Above.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 4, 2024. On June 4, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 5, 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 Complainant filed an amended Complaint on June 6, 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 June 6, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 26, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 30, 2024.

The Center appointed Zineb Naciri Bennani as the sole panelist in this matter on July 3, 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 Compagnie Générale des Etablissements Michelin, a French company operating worldwide in the field of designing and distributing tires. The Complainant also provides digital services, maps and guides and develops high technology materials that serve the mobility industry.

The Complainant was created in 1889, with the first Michelin Guide launched in 1920, in order to help motorists plan their trips.

The Complainant also operates in the United States, Canada and Mexico with headquarter operations and plants in each country.

The Complainant is the owner of trademark registrations for MICHELIN, including the following:

- United States trademark registration no 892045 for MICHELIN, registered on June 2, 1970 for pneumatic tires and inner tubes for vehicles
- United States trademark registration no 4126565 for MICHELIN, registered on April 10, 2012 for insurance services
- International trademark registration no 771031 for MICHELIN, registered on June 11, 2001 for multiple goods and services, including deodorizers, tire mounting and demounting apparatus, scrapers for vehicle windows, first-aid kits, and tourism services

The Complainant is also the owner since December 1, 1993 of the following domain name: <michelin.com>, its main website.

The Complainant provided evidence in support of the above.

According to the WhoIs records, the disputed domain name was registered on March 20, 2024 by Transure Enterprise Ltd, a company based in the United States.

The disputed domain name redirects towards a parking page displaying pay-per-click (PPC) commercial links.

According to evidence provided as Annex 6 to the Complaint, on April 23, 2024, the Complainant sent a blocking request of the disputed domain name to the Registrar and a cease-and-desist letter to the registrant listed in the WhoIs requesting the transfer of the disputed domain name to it.

The Respondent did not reply.

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.

The complainant argues that it owns numerous trademarks registrations for MICHELIN throughout the world and specifically in the United States.

Notably, the Complainant contends that the disputed domain name is virtually identical or at least confusingly similar to Complainant's trademark MICHELIN, as it reproduces the Complainant's trademark in its entirety with the addition of a generic term "mall".

With respect to the latter, the Complainant argues that adding a generic and descriptive term to the Complainant mark does not influence the similarity between a trademark and a domain name.

The Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name since it has not been authorized by the Complainant to register the disputed domain name or to use its trademark within the disputed domain name.

The Complainant submits that the Respondent cannot claim prior rights or legitimate interest in the disputed domain name, as the MICHELIN trademarks precede the registration of the disputed domain name for years, it is not commonly known by the disputed domain name and it is not making either a bona fide offering of goods or services or a legitimate noncommercial or fair use of the disputed domain name.

The Complainant submits that the Respondent has registered the disputed domain name in bad faith, since the Complainant's trademark MICHELIN is well known throughout the world including the United States. Moreover the Complainant states that the Respondent uses the disputed domain name in bad faith, in order to redirect Internet users to a webpage displaying PPC links related to tires.

B. Respondent

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

A respondent is not obliged to participate in a proceeding under the Policy, but if it fails to do so, reasonable facts asserted by a complainant may be taken as true, and appropriate inferences, in accordance with paragraph 14(b) of the Rules, may be drawn.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed the Complainant must satisfy the Panel that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

There are no exceptional circumstances within paragraph 5(f) of the Rules to prevent the Panel from determining the dispute based upon the Complaint, notwithstanding the failure of the Respondent to file a Response. Under paragraph 14(a) of the Rules in the event of such a "default" the Panel is still required "to proceed with a decision on the complaint", whilst under paragraph 14(b) it "shall draw such inferences there from as it considers appropriate". This dispute resolution procedure is accepted by the domain name registrant as a condition of registration.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name.

The Panel looks at section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"): "where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing".

The Complainant has demonstrated trademarks rights over MICHELIN around the world for purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Complainant has highlighted how its trademark is entirely reproduced within the disputed domain name, save for the additional word “mall” inserted after the trademark MICHELIN.

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 the term “mall” 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. (See *Allianz SE v. IP Legal, Allianz Bank Limited*, WIPO Case No. [D2017-0287](#)).

Therefore, 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 Complainant has demonstrated the lack of use or demonstrable preparations to use the disputed domain name for a bona fide offering of goods or services or a legitimate non commercial or fair use. Moreover, the Respondent is not commonly known by the disputed domain name.

The Respondent has not submitted any evidence or arguments which could demonstrate its rights to, or legitimate interests in the disputed domain name. Neither it has rebutted any of the Complainant’s contentions.

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 that the Respondent uses the disputed domain name to redirect users to a webpage displaying PPC links related to tires redirecting towards entities unrelated to Complainant.

The Complainant's trademark is well-known all over the world with trademark registrations in the United States.

Previous UDRP decisions have arrived at a finding that registering a domain name with knowledge of a complainant and its rights, with the intention to divert traffic and obtaining commercial gain is evidence of bad faith registration and use.

The Complainant has demonstrated a pattern of bad faith conduct from the Respondent side regarding several proceedings brought under the UDRP (see *Dollar Bank, Federal Savings Bank v. Above.com Domain Privacy / Transure Enterprise Ltd*, WIPO Case No. [D2016-0700](#)).

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 <micelinmall.vip> be transferred to the Complainant.

/Zineb Naciri Bennani/

Zineb Naciri Bennani

Sole Panelist

Date: July 17, 2024