

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. Chris Vickers,
MyShopManager
Case No. D2024-2165

1. The Parties

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

The Respondent is Chris Vickers, MyShopManager, United States of America.

2. The Domain Names and Registrar

The disputed domain names <suncitymichelin.com> and <suncitymichelin.net> are registered with Amazon Registrar, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 27, 2024. On May 28, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On May 29, 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 (Identity Protection Service) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 30, 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 May 31, 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 3, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 23, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 3, 2024.

The Center appointed Meera Chature Sankhari as the sole panelist in this matter on July 24, 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

That the Complainant is Compagnie Générale des Etablissements Michelin, a tire company which is involved in multiple sectors, including digital services, maps and guides to help travelers. That the Complainant launched "MICHELIN Guide" book in 1920 to help motorists - thereby boosting car sales and in turn, tire purchases. In 1926, the Michelin guide began to award stars for fine dining establishments and the guide now rates over 30,000 establishments in over 30 territories across three continents, and more than 30 million MICHELIN Guides have been sold worldwide since.

That the Complainant also operates in the United States of America ("U.S.A."), Canada and Mexico with headquarter operations and plants in each country known as Michelin North America. Michelin North America is a USD 10.76 billion dollar company, operating 19 plants in 16 locations and employs 22,000 people. It manufactures and sells tires for multiple sectors including aviation, agriculture, logistics, *etc.*, in the United Kingdom, the Complainant incorporated Michelin Tyre Company Ltd. on May 11, 1905.

The Complainant has won multiple awards such as being named No. 1 Best Large Employer in America in Forbes magazine's 2018 "America's Best Large Employers" list and ranked highest in "original equipment tires" category in the U.S.A. for 2018.

The Complainant owns several trademark registrations for the mark MICHELIN registered across various countries and numerous classes, which include:

- i. International trademark registration no. 348615 in multiple classes, dated July 24, 1968, which is the first registration;
- ii. U.S.A. registration no. 3329924 in class 39, registered since November 6, 2007;
- iii. International registration no. 492879 in class 12 registered on May 10, 1985

The Complainant and its subsidiaries operate two domain names reflecting their trademark MICHELIN namely <michelin.com> registered on December 1st, 1993; and <michelin.co.uk> registered on April 22, 1997. The Complainant asserts and has provided details of various UDRP decisions, wherein their trademark MICHELIN has been held to be a well-known mark.

The disputed domain names <suncitymichelin.com> and <suncitymichelin.net> reproduce the trademark of the Complainant in its entirety.

The disputed domain names <suncitymichelin.com> and <suncitymichelin.net> were registered on July 1, 2020 and they are both inactive.

That the Complainant became aware of the registration of two domain names, namely <suncitymichelin.com> and <suncitymichelin.net> and subsequently sent a blocking request to the registrar asking them to put both disputed domain names on status "ClientHold" and deactivate them. However, the registrar refused to block, stating that the domain-names disputes must be resolved either by agreement, court action, or arbitration and advised the Complainant to file a UDPR complaint.

Accordingly, the Complainant filed this complaint.

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.

Notably, the Complainant contends that the disputed domain names reproduce the Complainant's well-known trademark MICHELIN. The Complainant owns several trademark registrations for the mark MICHELIN globally and in numerous classes. Owing to the goodwill attached to the mark MICHELIN, the public would reasonably assume that the disputed domain names would be owned by Complainant or at least assume that it is related to Complainant.

The Complainant further contends that the term "Suncity" is common in the field of services related to the sale of new and used cars, to vehicle maintenance and repair and thus, the term "Suncity" is associated with the Complainant's MICHELIN mark and product categories. The Complainant alleges that the composition of the disputed domain names may lead people into believing that the disputed domain names are endorsed by the Complainant or that it will direct them to their official website.

The Complainant also alleges that the Respondent is not 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 names incorporating this mark MICHELIN. The Complainant has prior rights over the trademark MICHELIN whose registration precedes the registration of the disputed domain names. There is no evidence that the Respondent has been associated with the name MICHELIN.

The Complainant alleges that bad faith can be found where the Respondent "knew or should have known" of the Complainant's trademark rights and, nevertheless registered a domain name in which he had no rights or legitimate interest. That the Complainant is well-known throughout the world and the composition of the disputed domain names, which identically reproduce Complainant's trademark MICHELIN associated only with the term "Suncity", directly targeting the Complainant's field of activity, confirms that the Respondent was aware of the Complainant and its trademarks and that it registered the disputed domain names based on the attractiveness of the Complainant's trademarks.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Panel notes that the disputed domain names reproduce the Complainant's trademark MICHELIN in its entirety and the mark is easily recognizable.

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.

It is also an established rule that the mere adjunction of a generic Top-Level Domains ("gTLD") such as ".com" or ".net" is irrelevant as it is well established that the gTLD is insufficient to avoid a finding of confusing similarity.

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 Panel finds the mark is recognizable within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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.

The Complainant has stated that the Respondent is not affiliated with the Complainant and has not even authorized the Respondent to use their trademark, whether to seek registration of the disputed domain names nor for seeking the registration of the same mark.

That the Complainant's trademark "MICHELI" was registered prior to the registration of the disputed domain names by the Respondent. Moreover, there is no evidence or other circumstance that indicate that the Respondent is known by the name "Michelin"; has made any demonstrable preparation to use or has any intention of using the disputed domain name for any bona fide, legitimate, noncommercial or fair use. In fact, the disputed domain name leads users to an inactive page.

The Panel agrees that in the absence of any license or permission from the Complainant to use such a widely-known trademark, the Respondent cannot claim any bona fide or legitimate use of the disputed domain names incorporating the said trademark. Thus, the adoption of the trademark MICHELIN by the Respondent is with the sole purpose of free-riding on the goodwill of the Complainant.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized proving that 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 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 “knew or should have known” of the Complainant’s trademark and still proceeded with the registration of the disputed domain names incorporating that mark in which he held no legitimate rights.

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 would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes that both the disputed domain names lead to an inactive website and the well-known status of the mark and the lack of evidence to provide any possible defense for the Respondent leads to the conclusion that the passive holding of the disputed domain names in this case does not prevent a finding of bad faith.

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 names <suncitymichelin.com> and <suncitymichelin.net> be transferred to the Complainant.

/Meera Chature Sankhari/

Meera Chature Sankhari

Sole Panelist

Date: August 9, 2024