

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. Laurie DiGiovanni Case No. D2024-2370

1. The Parties

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

The Respondent is Laurie DiGiovanni, United States of America (“United States”).

2. The Domain Names and Registrar

The disputed domain names <michelifarm.com>, <michelifarms.com> and <michelifarms.online> are registered with Domain.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 11, 2024. On June 12, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 13, 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 and contact information in the Complaint (Domain Privacy Service FBO Registrant). The Center sent an email communication to the Complainant on June 14, 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 June 17, 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 20, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 10, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 18, 2024.

The Center appointed Zoltán Takács as the sole panelist in this matter on July 25, 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

Founded in 1889 the Complainant is a French multinational company, one of the largest tyre manufacturers in the world. It is present in 170 countries, has more than 124,000 employees and operates 117 manufacturing facilities and sale agencies in 26 countries.

The Complainant is also known for its roadmaps and the Michelin Guide that rates over 30,000 establishments in over 30 territories across three continents and awards Michelin stars for top quality dining establishments.

The Complainant owns numerous registrations for the MICHELIN mark, including the United States Registration No. 3329924, registered since November 6, 2007.

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

The disputed domain names were all registered on January 13, 2024, and have been resolving to a “403 Forbidden” page displaying: “You don’t have permission to access / on this server.”

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:

- before starting the present proceeding, the Respondent accepted to transfer the disputed domain names to the Complainant and confirmed she would not use the MICHELIN trademark in response to a cease and desist letter from the Complainant. However, then the Respondent remained silent for the transfer codes;
- the disputed domain names all reproduce its MICHELIN trademark and the addition of the terms “farm” and “farms” is not sufficient to distinguish the disputed domain names from the trademark;
- the Respondent has no rights or legitimate interests in respect of the disputed domain names since it is unable to rely on any of the circumstances set out in paragraphs 4(c)(i), (ii), or (iii) of the Policy;
- the Mail Exchanger (“MX”) records in the disputed domain names’ configuration indicate that they are capable of receiving emails which may be indication of a possible phishing scheme directed at defrauding the Complainant’s customers into revealing personal and financial information;
- the Respondent has registered the disputed domain names with knowledge of its well-known mark and highly likely with intent to divert Internet traffic to its website which is also evidence of bad faith.

The Complainant requests that the disputed domain names be transferred from the Respondent to the Complainant.

B. Respondent

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

6. Discussion and Findings

A complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the complaint, namely that:

- (i) the domain names are 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 domain names; and
- (iii) the domain names have been registered and are being used in bad faith.

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 Panel finds the mark is recognizable within the disputed domain names. The difference between the Complainant's MICHELIN trademark and the disputed domain names is the addition of the terms "farm" and "farms" which 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.

Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7 and 1.8.

The Panel finds that 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 Respondent is not affiliated with the Complainant in any way and has never been authorized by the Complainant to register and use domain names incorporating its MICHELIN trademark.

As mentioned above the disputed domain names have been resolving to a "403 Forbidden" page displaying: "You don't have permission to access / on this server". There is no evidence on the record suggesting that the disputed domain names have been used either in connection with a bona fide offering of goods or services or for legitimate noncommercial or fair purposes.

In addition, the composition of the disputed domain names, namely consisting of the Complainant's trademark and of the additional terms supports the finding of the risk of implied affiliation of the disputed domain names with the Complainant and thus cannot confer any rights or legitimate interests on the Respondent. [WIPO Overview 3.0](#), section 2.5.1.

The Panel finds that 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.

It has been well-established in prior decisions under the UDRP, with which the Panel agrees, that the Complainant's MICHELIN trademark is globally famous (see e.g. *Compagnie Générale des Etablissements Michelin v. Vyacheslav Nechaev*, WIPO Case No. [D2012-0384](#) and *Compagnie Générale des Etablissements Michelin (Michelin) v. Zhichao Yang*, WIPO Case No. [D2013-1418](#)).

Prior UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith (see section 3.1.4 of the [WIPO Overview 3.0](#)).

The Respondent's replication of the Complainant's well-known trademark in the disputed domain names convinces the Panel that the Respondent clearly had the trademark in mind at the time of registration.

According to the uncontested evidence submitted by the Complainant, the Respondent is passively holding the disputed domain names, which does not prevent a finding of bad faith under the Policy when considering the totality of the circumstances. [WIPO Overview 3.0](#), section 3.3. In this context the Panel notes that the Complainant's MICHELIN trademark is inherently distinctive and well-known internationally and that in the absence of rights or legitimate interests of the Respondent in the disputed domain names no actual or contemplated good faith use of the disputed domain names appears to be possible.

Furthermore, in these circumstances, the Respondent's active MX records associated with the disputed domain names, enabling sending potential fraudulent emails, creates a real and ongoing threat to the Complainant.

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 <michelifarm.com>, <michelifarms.com>, and <michelifarms.online> be transferred to the Complainant.

/Zoltán Takács/

Zoltán Takács

Sole Panelist

Date: August 8, 2024