

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. Frederic Caron, ed Oosj
Case No. D2024-2948

1. The Parties

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

The Respondent is Frederic Caron, ed Oosj, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <mlchelim.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 18, 2024. On July 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 19, 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 (Privacy service provided by Withheld for Privacy ehf / Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 22, 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 July 24, 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 July 29, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 18, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 19, 2024.

The Center appointed Áron László as the sole panelist in this matter on August 23, 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 company established in 1889 in Clermont-Ferrand, France, which manufactures and sells tires for a wide range of vehicles, produces road maps and publishes restaurant guides. The Complainant is present in 171 countries, has 114,000 employees and operates 69 tire manufacturing facilities. The Complainant's Michelin Guide, which uses stars to rate the quality of restaurants, was first published in 1926 and has since sold more than 30 million copies.

The Complainant is the owner of the following trademarks for the word sign "MICHELIN" (the Trademark):

- International registration "MICHELIN" No. 771031, registered on June 11, 2001, designating various jurisdictions in Europe, Asia and Africa;
- United States of America trademark "MICHELIN" No. 892045, registered on June 2, 1970;
- United States of America trademark "MICHELIN" No. 4126565, registered on April 10, 2012.

In addition, the Complainant operates, among others, under the domain name <michelin.com>, which was registered on December 1, 1993.

The disputed domain name was registered on May 8, 2024. The disputed domain name resolves to a website displaying pay-per-click ("PPC") advertisements links. The footer of the website says that "[t]his webpage was generated by the domain owner using Sedo Domain Parking." At the time of the writing of this decision the PPC links related to perfumes and hair implantation, whereas the screenshot made by the Complainant on July 17, 2024, shows advertisements concerning perfumes and centrifuge tubes. The PPC links therefore appear to change regularly.

The Respondent appears to be a private person with an address in the United States.

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 Trademark has a reputation worldwide and the disputed domain name is confusingly similar to it. The disputed domain name <michelim.com> imitates the Complainant's trademark by changing two characters, which may be overlooked by the public, a practice commonly referred to as "typosquatting". The imitation of the Complainant's trademark reinforces the false impression that the disputed domain name is somehow officially associated with the Complainant. In fact, the disputed domain name is likely to mislead Internet users into believing that the domain name is owned by the Complainant in order to promote its products and services.

As to the second element, the Complainant contends that the Respondent is not affiliated with the Complainant in any way, nor has it been authorised by the Complainant to use and register its trademark or to seek registration of a domain name containing that trademark. Furthermore, the Respondent cannot claim any prior rights or legitimate interest in the disputed domain name, as the MICHELIN trademark predates the registration of the disputed domain name by many years. The Respondent is not commonly known by the disputed domain name or the name "MICHELIN".

Previous panels have held that “typosquatting” does not constitute legitimate use of a trademark (*FragranceX.com, Inc. v. Argosweb Corp a/k/a Oleg Techino in this name and under various aliases, WuWeb Pty Ltd, Alichec Inc., Belroots Pty Ltd, Crystal Image Pty Ltd, Elarson & Associates Pty Ltd, Lidnick Webcorp, Liquid SEO Limited, Loshedina Inc, Luchichang Pty Ltd, Netmilo Pty Ltd, Orel Hlasek LLC, Volchar Pty Ltd, Web Pescados LLC, Webatopia Marketing Limited, ZincFusion Limited, Chin-Hui Wu, Domain Administrator, Denholm Borg, Denesh Kumar, Marcelos Vainez, Alex Ovechkin, Vlad Obchikov*, WIPO Case No. [D2010-1237](#)). The Respondent cannot assert that, before any notice of this dispute, it was using, or had made demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a bona fide offering of goods or services. The disputed domain name links to a parking page containing commercial PPC links, which, in conjunction with the “typosquatting”, cannot be considered a use of the domain name in connection with a bona fide offering of goods and services.

Regarding the third element the Complainant further contends that bad faith may be found where the Respondent “knew or should have known” of the Complainant’s trademark rights and nevertheless registered a domain name in which it had no right or legitimate interest. Here, it is implausible that the Respondent did not know the Complainant when it registered the disputed domain name. First, the Complainant is well known throughout the world and has an undisputed reputation in the automotive industry and in foreign gastronomy. Many panels have previously recognised the Complainant’s worldwide reputation, which makes it unlikely that the Respondent was unaware of the Complainant’s rights in that mark.

Secondly, the composition of the disputed domain name <mlchelim.com>, which imitates the Complainant’s trademark MICHELIN by substituting two letters, confirms that the Respondent was aware of the Complainant and its trademark. Previous panels have held that bad faith may be found where a domain name is so obviously associated with a well-known mark that its mere use by someone who has no connection with the mark suggests opportunistic bad faith. Typosquatting is in itself evidence of bad faith.

Third, the Complainant’s trademarks significantly predate the disputed domain name. In this regard, previous panels have held that knowledge of the Complainant’s intellectual property rights, including trademarks, at the time of registration of the disputed domain name demonstrates bad faith registration.

The disputed domain name is in use. The foregoing arguments support the conclusion that it is being used in bad faith. The clear inference to be drawn from the Respondent’s actions is that it is seeking to take unfair advantage of the reputation of the Complainant’s mark. It is more likely than not that the Respondent’s primary motive in using the disputed domain name is to capitalise on or otherwise take advantage of the Complainant’s trademark rights by creating an initial likelihood of confusion.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs this Panel to “decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

Paragraph 4(a) of the Policy requires that a complainant must prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

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

In view of the Respondent's failure to submit a Response, the Panel shall decide this administrative proceeding on the basis of the Complainant's undisputed representations pursuant to paragraphs 5(f), 14(a) and 15(a) of the Rules and draw such inferences as it considers appropriate pursuant to paragraph 14(b) of the Rules.

The Panel is entitled to accept all reasonable allegations set forth in a complaint. However, the Panel may deny relief where a complaint contains mere conclusory or unsubstantiated arguments. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 4.3.

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 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 recognisable within the disputed domain name. The letter "l" can easily be mistaken for an "i", and the same goes for the letter "m", which can easily be mistaken for an "n". A domain name which consists of an intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element. Examples of such typos include substitution of similar-appearing characters (e.g., upper vs lower-case letters or numbers used to look like letters), and the use of different letters that appear similar in different fonts. [WIPO Overview 3.0](#), section 1.9.

Accordingly, the disputed domain name is 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.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognised 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.

Applying UDRP paragraph 4(c), panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a bona fide offering where such links compete with or capitalise on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users. [WIPO Overview 3.0](#), section 2.9.

Previous panels have held that "typosquatting" does not constitute legitimate use of a trademark (*FragranceX.com, Inc. v. Argosweb Corp a/k/a Oleg Techino in this name and under various aliases*, supra).

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 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 UDRP paragraph 4(b)(iv) provides that it constitutes evidence of a respondent's bad faith where by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's web site or location or of a product or service on the respondent's web site or location.

The Panel finds that the MICHELIN trademark is well-known throughout the world and has an undisputed reputation in the automotive industry and in foreign gastronomy, which has been recognised by previous panels and which makes it unlikely that the Respondent was unaware of the Complainant's rights in the trademark.

Furthermore, the composition of the disputed domain name <mlchelim.com> imitates the Complainant's trademark MICHELIN by substituting two letters that can easily be confused with the original letters of the trademark, which confirms that the Respondent was aware of the Complainant and its trademark. Previous panels have held that bad faith may be found where a domain name is so obviously associated with a well-known mark that its mere use by someone who has no connection with the mark suggests opportunistic bad faith, which is even more persuasive in cases of "typosquatting", such as the present case.

This is reinforced by the fact that the Complainant's trademark is significantly older than the disputed domain name. The Respondent's apparent knowledge of the Complainant's trademark at the time of registration of the disputed domain name demonstrates bad faith.

The disputed domain name which is in use resolves to a domain parking page displaying PPC links. Such use is in bad faith for the reasons set forth above. It is more likely than not that the Respondent's primary motive in using the disputed domain name is to capitalise on or otherwise take advantage of the Complainant's trademark rights by creating an initial likelihood of confusion.

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 <mlchelim.com> be transferred to the Complainant.

/Áron László/

Áron László

Sole Panelist

Date: September 6, 2024