

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v.
Dalibor Pejovic, IT Soul doo
Case No. D2024-3522

1. The Parties

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

The Respondent is Dalibor Pejovic, IT Soul doo, Montenegro.

2. The Domain Name and Registrar

The disputed domain name <michelin-car-tire-6326c15d.zone> (the “Domain Name”) is registered with eNom, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 30, 2024. On August 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On August 30, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name that differed from the named Respondent (Whois Agent (003032383), Whois Privacy Protection Service, Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 2, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to amend the Complaint. The Complainant filed an amended Complaint on September 3, 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 September 10, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 30, 2024. The Respondent did not submit a response. Accordingly, the Center notified the Respondent’s default on October 2, 2024.

The Center appointed A. Justin Ourso III as the panelist in this matter on October 9, 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, a French company, is a well-known global manufacturer, distributor, and provider of automotive tires and related goods and services, which has operated since 1889 under the name and mark MICHELIN.

The Complainant owns a European Union trademark registration, No. 001791243, for its MICHELIN trademark, issued on October 24, 2001, for goods in classes 6, 7, 12, 17, and 28, and an International trademark registration, No. 771031, for its MICHELIN trademark, issued on June 11, 2001, for goods and services in classes 5, 7, 8, 9, 10, 11, 12, 16, 17, 18, 20, 21, 24, 25, 39, and 42.

The Complainant owns multiple domain names, including <michelin.com>, which it registered in 1993.

The Respondent, using a domain name privacy service, registered the Domain Name, on July 10, 2024, without any authorization from the Complainant. Prior to the filing of the Complaint and shortly after this proceeding began, the Domain Name resolved to a web page with pay-per-click (“PPC”) advertising links for goods and services related to the Complainant’s goods and services. During the preparation of this Decision, the Domain Name did not resolve to a landing page. Instead, one browser delivered a message that “The connection for this site is not secure” and “<michelin-car-tire-6326c15d.zone> uses an unsupported protocol” and another browser delivered a message that “Secure Connection Failed”, “Cannot communicate securely with peer: no common encryption algorithm(s)”, and “The page you are trying to view cannot be shown because the authenticity of the received data could not be verified”.

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 Domain Name.

Notably, the Complainant contends that the Domain Name resolves to a parking page with commercial links related to the Complainant’s activities, including tires and other automotive products and services, misleadingly suggesting to consumers an endorsement or official affiliation with the Complainant’s trademark and diverting customers from the Complainant’s web sites for the commercial gain of the Respondent; the Respondent failed to respond to its cease-and-desist letters; and the composition of the Domain Name, namely, using the terms “car” and “tire” together with its mark, is a deliberate attempt to suggest an authorized association with the Complainant and demonstrates that the Respondent was aware of the Complainant and its well-known trademark before the Respondent registered the Domain Name.

B. Respondent

The Respondent did not submit a response to the amended Complaint.

6. Discussion and Findings

A complainant must prove three elements to obtain relief: (i) the domain name is identical or confusingly similar to a trademark in which the complainant has rights; (ii) the respondent has no rights or legitimate interests in the domain name; and (iii) the respondent registered and is using the domain name in bad faith. Policy, paragraph 4(a).

A. Identical or Confusingly Similar

The Panel finds that the Complainant's registrations establish its trademark rights. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.2.1.

The trademark is recognizable within the Domain Name and the additional terms and alphanumeric character string do not avoid this finding. [WIPO Overview 3.0](#), sections 1.7 and 1.8. Accordingly, the Panel concludes that the Complainant has proven the first element: the Domain Name is confusingly similar to a trademark in which it has rights.

B. Rights or Legitimate Interests

The Respondent has not claimed the existence of any circumstance under the Policy, paragraph 4(c), that demonstrates that a respondent has rights to, or legitimate interests in, a domain name. The Complainant, on the other hand, has shown that it established its trademark rights long before the Respondent registered the Domain Name; it has not authorized the Respondent to use its trademark; and the record contains no evidence that the Respondent is commonly known by the Domain Name. These constitute *prima facie* a showing that the Respondent lacks any rights or legitimate interests in the Domain Name under the Policy, paragraph 4(a)(ii), shifting the burden of production on this second element to the Respondent to come forward with relevant evidence proving rights or legitimate interests in the Domain Name.

[WIPO Overview 3.0](#), section 2.1. The Respondent has not submitted any evidence to rebut the *prima facie* showing.

Additionally, the Panel finds that the Respondent registered the Domain Name using a privacy service, thereby masking its identity; the Registrar identified the Respondent with a name that does not resemble the Domain Name; the Respondent failed to respond to the communications from the Complainant or to the Complaint; the landing page to which the Domain Name resolved prior to the proceeding and shortly after it began used PPC advertising related to the Complainant's trademark and commercial activities, which is not a bona fide commercial, noncommercial, or fair use of the Domain Name. To the contrary, the Panel finds that the evidence shows an intended deceptive use for commercial gain. Accordingly, the Panel concludes that the second element is proven: the Respondent lacks rights or legitimate interests in the Domain Name.

C. Registered and Used in Bad Faith

The Policy provides that the following circumstance is "evidence of the registration and use of a domain name in bad faith: [...] by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site ..., by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site". Policy, paragraph 4(b)(iv).

The Complainant's mark is a globally recognized well-known mark. Panels have consistently found that the mere registration of a domain name that is confusingly similar to a well-known trademark can create a presumption of bad faith registration, which here is un rebutted by the Respondent. [WIPO Overview 3.0](#), section 3.1.4. The record shows that the Domain Name has resolved to a landing page with PPC links related to competing automotive goods and services. Significantly, the Domain Name uses the terms "car" and "tire". The Panel finds this conclusive evidence that the Respondent must have been aware of the Complainant's trademark and of its rights in its mark at the time that the Respondent registered the Domain Name, and that the Respondent's registration and use of the Domain Name is intended to attract,

misleadingly and deceptively, customers and potential customers of the Complainant for the Respondent's commercial gain. Policy, paragraph 4(b)(iv); [WIPO Overview 3.0](#), sections 3.1.4, 3.2.1, and 3.2.2.

Although the landing page was unable to be reached during the preparation of this Decision, the risk that the Respondent will resume using a landing page with PPC advertising that deceptively and unfairly trades on the goodwill in the Complainant's trademark remains. Furthermore, other panels have found that the non-use of a domain name does not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3.

These findings compel the Panel to conclude that the Respondent intentionally registered the Domain Name in bad faith to take unfair advantage of the Complainant's trademark and that the Respondent is using the Domain Name in bad faith intentionally to attract Internet users to its site for commercial gain by creating a likelihood of confusion with the Complainant's trademark as to the source of the goods and services offered through the Domain Name, in violation of the Policy, paragraph 4(b)(iv). Accordingly, the Panel concludes that the third element is proven: the Respondent registered and is using the Domain Name in bad faith.

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 Domain Name <michelin-car-tire-6326c15d.zone> be transferred to the Complainant.

/A. Justin Ourso III/

A. Justin Ourso III

Panelist

Date: October 16, 2024