

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. David You, personal Case No. D2024-3675

1. The Parties

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

The Respondent is David You, personal, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <michelin-toto.com> is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 11, 2024. On September 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 11, 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 (Contact Privacy Inc. Customer 0171337050) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 20, 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 September 23, 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 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 16, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 17, 2024.

The Center appointed Steven A. Maier as the sole panelist in this matter on October 22, 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 limited company registered in France. It is, among other activities, a tyre manufacturer and a publisher of travel and restaurant guides.

The Complainant (or its associated entities) is the owner of trademark registrations for the mark MICHELIN in numerous territories. Such registrations include, for example:

- United States trademark registration number 892045 for the word mark MICHELIN, registered on June 2, 1970 in International Class 35; and

- International trademark registration number 771031 for the word mark MICHELIN, registered on June 11, 2001 in numerous International Classes.

The Complainant's trademark MICHELIN has been found by previous panels under the UDRP to have attained the status of a "famous" or "well-known" trademark (see e.g., *Compagnie Generale Des Etablissements Michelin v. Vaclav Novotny*, WIPO Case No. [D2009-1022](#)).

The Complainant operates a website at "www.michelin.com", having registered the corresponding domain name on December 1, 1993.

The disputed domain name was registered on May 31, 2024.

The Complainant provides evidence that the disputed domain name resolves to a website headed with the words "Michelin Toto" in the Korean language, and the statements "Just another Elementor hosted website;" and "All rights reserved" (in English).

5. Parties' Contentions

A. Complainant

The Complainant submits that it is the world's leading tyre company and has provided innovative services and solutions contributing to human advancement since 1889. It states that it employs over 124,000 individuals with a presence in 171 countries and that it has won numerous accolades, including Forbes' "America's Best Employer" award in 2018.

The Complainant submits that the disputed domain name is confusingly similar to its MICHELIN trademark. It contends that the disputed domain name incorporates its MICHELIN trademark in its entirety, and that the addition of a generic or descriptive term such as "toto" in the disputed domain name (together with a hyphen) does not prevent a finding of confusing similarity with the trademark in question.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It states that it has no relationship with the Respondent and has never authorized it to use its MICHELIN trademark, that the Respondent has not commonly been known by the disputed domain name and that the Respondent is making neither bona fide commercial use nor legitimate noncommercial or fair use of the disputed domain name.

The Complainant contends, in particular, that the Respondent's, use of the disputed domain name for a website indicating only: "Michelin Toto" and "hosted by Elementor" cannot give rise to any rights or legitimate interests on the Respondent's part.

The Complainant submits that the disputed domain name was registered and is being used in bad faith.

The Complainant submits that its MICHELIN trademark is widely known worldwide and that it has been found by previous panels under the UDRP to have the status of a famous or well-known trademark. The Complainant contends that "opportunistic bad faith" must be presumed in a case such as this, where the disputed domain name is so obviously connected with the Complainant's well-known trademark, and the Respondent has no legitimate connection with that trademark.

The Complainant further submits that the Respondent could not plausibly claim to have had no actual knowledge of its MICHELIN trademark and that, in any event, a simple Google search against that term would have revealed results relating only to the Complainant.

The Complainant submits that the disputed domain name is likely to cause confusion with the Complainant's MICHELIN trademark, and that such confusion will inevitably result in the diversion of Internet users to the Respondent's website. The Complainant contends that the Respondent intends to attract such Internet users to its website for commercial gain, as contemplated by paragraph 4(b)(iv) of the Policy, and that the current status of the Respondent's website does not detract from the inference that the Respondent is seeking to benefit from the Complainant's trademark.

The Complainant provides evidence that it sent a "cease and desist" communication to the Respondent in June 2024, via the registered privacy service and by email, followed by various reminders, but did not receive any response.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are 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 has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has established that it is the owner of registered trademark rights in respect of the mark MICHELIN. The disputed domain name wholly incorporates that trademark, with the addition of the term "-toto", which does not prevent the Complainant's trademark from being recognizable within the disputed domain name. The Panel therefore finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

In the view of the Panel, the Complainant's submissions set out above give rise to a prima facie case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. However, the Respondent has failed to file a Response in this proceeding and has not submitted any explanation for its registration and use of the disputed domain name, or evidence of rights or legitimate interests on its part in the disputed domain name, whether in the circumstances contemplated by paragraph 4(c) of the Policy or otherwise.

The Panel does not find the Respondent's use of the disputed domain name, for a website stating only "Michelin Toto" and "Just another Elementor hosted website ;)", to give rise to rights or legitimate interests in the disputed domain name on the part of the Respondent. The Complainant's trademark MICHELIN is not a term in common usage, and the website is effectively inactive in any event.

Furthermore, for the reasons stated below, the Panel finds that the Respondent registered and has used the disputed domain name unfairly to target the Complainant's trademark, which cannot give rise to rights or legitimate interests on the part of the Respondent.

The Panel therefore finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C. Registered and Used in Bad Faith

The Panel finds the Complainant's trademark MICHELIN to be distinctive in nature and to have attained the status, over many years' continuous usage, of a famous or well-known trademark. The disputed domain name wholly incorporates that trademark, and no explanation for the Respondent's choice of the disputed domain name has been provided by the Respondent or is apparent from its use of the disputed domain name. The Panel infers in the circumstances that the Respondent registered the disputed domain name with the Complainant's trademark in mind, and with the intention of taking unfair advantage of the goodwill attaching to that trademark.

The Panel finds the disputed domain name to be inherently misleading as to source; by virtue of the inclusion of the Complainant's famous mark, prima facie an association with the Complainant is triggered. See section 3.1.4 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)).

Moreover, the Panel finds it difficult to conceive of any legitimate use that the Respondent could make of the disputed domain name, which would not trade off the Complainant's mark, and the Respondent has provided no submissions or evidence in this regard.

While the Respondent's ultimate intentions with regard to the disputed domain name are unclear, the Panel nevertheless finds, on balance, that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of its website or of a product or service on its website; this is evidence of registration and use in bad faith under paragraph 4(b) of the Policy.

The Panel finds further, in all the circumstances of the case, that by maintaining or "passively holding" the disputed domain name, the Respondent is acting in bad faith under the terms of the Policy.

The Panel finds in the circumstances that the disputed domain name has been registered and is being used 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 disputed domain name <micelin-toto.com> be transferred to the Complainant.

/Steven A. Maier/

Steven A. Maier

Sole Panelist

Date: October 29, 2024