

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. Liana Cadbury,
Hilbrough Ltd
Case No. DCC2023-0013

1. The Parties

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

The Respondent is Liana Cadbury, Hilbrough Ltd, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <michelin-com.cc> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 31, 2023. On August 31, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 31, 2023, 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 (Not disclosed) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 4, 2023, 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 5, 2023.

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 6, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 26, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 3, 2023.

The Center appointed Masato Dogauchi as the sole panelist in this matter on October 9, 2023. 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 has since 1889 dedicated itself to improve the mobility of goods and people, and is one of the leading companies manufacturing and marketing tires for every type of vehicle, including airplanes, automobiles, bicycles/motorcycles, earthmovers, farm equipment and trucks. It also offers electronic mobility support services and publishes travel guides, hotel and restaurant guides, maps and road atlases. The Complainant is present in more than 170 countries, has more than 124,000 employees and operates 117 tire manufacturing facilities and sales agencies in 26 countries, including United States.

The Complainant has registered the MICHELIN trademark throughout the world, including:

- International Registration for MICHELIN No 771031, registered on June 11, 2001;
- Australian Registration MICHELIN No 879562, registered on June 18, 2001.

In addition, the Complainant operates domain names reflecting its MICHELIN trademark in order to promote its services, such as:

- <michelin.com>, registered on December 1, 1993;
- <michelin.cc>, registered on March 5, 2018.

The disputed domain name <michelin-com.cc> was registered on August 4, 2023. It resolves to an inactive website, but it was configured with email servers and used in a phishing operation. The following statement is found in an email dated on August 9, 2023, from an email address connected to the disputed domain name, "@michelin-com.cc": "Please update our previous bank account on your system and make payment to our updated bank account below." The Complainant sent notifications to the registrar requesting the blocking of the disputed domain name and to the hosting provider, requesting the deactivation of email servers configured on the domain name, on August 10, 2023. Although the hosting provider did not comply with Complainant's request, the registrar blocked the domain name, as requested.

5. Parties' Contentions

A. Complainant

The Complainant's contentions are divided into three parts as follows:

First, the Complainant asserts that the disputed domain name is confusingly similar to its MICHELIN trademark, since the disputed domain name incorporates the MICHELIN trademark in its entirety. The other parts of the disputed domain name consist of the terms "-com" and ".cc". The Complainant contends that the disputed domain name is virtually identical to the Complainant's domain names <michelin.com> and <michelin.cc>. Thus, the disputed domain name would likely confuse Internet users into believing that the disputed domain name would direct them to a website related to the Complainant's activities. Furthermore, the addition of generic term, "com", and the country code Top-Level Domain ("ccTLD") for Cocos (Keeling) Islands, "cc", with hyphen and dot respectively, should not prevent a finding of confusing similarity.

Second, the Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant confirms that the Respondent is not affiliated with the Complainant in any way nor has been authorized by the Complainant to use and register its trademarks, or to seek registration of any domain name incorporating the Complainant's trademark. According to the

Complainant, the facts that the disputed domain name resolves to an inactive website and that the Respondent does not assert any legitimate noncommercial or fair use of the disputed domain name show that the Respondent is not doing a *bona fide* offering of goods or services by using the disputed domain name.

Third, the Complainant asserts that the disputed domain name has been registered and is being used in bad faith. The Complainant contends that it is implausible for the Respondent to have been unaware of the trademark, since the Complainant's MICHELIN trademark is known throughout the world, the composition of the disputed domain name entirely reproduces the Complainant's trademark and the Complainant's trademark registration predates the registration date of the disputed domain name. Furthermore, it should be noted that the Respondent registered the disputed domain name through a privacy shield service to hide the Respondent's identity and contact details. Therefore, the bad faith registration should be found in this case. With regard to the bad faith use, according to the Complainant, the fact that the disputed domain name resolves to an inactive website does not mean that it is used in good faith, and the fact that the disputed domain name was configured with email servers and used in a phishing operation should be considered that the disputed domain name is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

In accordance with the Rules, paragraph 15(a), a panel shall decide a case on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable. Since the Respondent has not made any substantive arguments in this case, the following decision is rendered on the basis of the Complainant's contentions and other evidence submitted by the Complainant.

In accordance with the Policy, paragraph 4(a), in order to qualify for a remedy, the Complainant must prove each of the following:

- (i) the disputed domain name 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 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 Panel finds that the Complainant has rights in the MICHELIN trademark.

The disputed domain name incorporates the MICHELIN trademark in its entirety. The other parts of the disputed domain name consist of the term "-com" and the ccTLD ".cc". Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). In this case, these additional terms are "com" with a hyphen. They are irrelevant in the determination of the confusing similarity between the disputed domain name and the MICHELIN trademark, as the mark remains recognizable within the disputed domain name. It is well established that the ccTLD suffix ".cc" is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.

Therefore, the Panel finds that the disputed domain name is confusingly similar to the trademark in which the Complainant has rights. The above requirement provided for in paragraph 4(a)(i) of the Policy is accordingly satisfied.

B. Rights or Legitimate Interests

The Panel finds that there is no evidence showing that the Respondent is commonly known by the name “michelin” or “michelin-com”, and that the Respondent is not affiliated with the Complainant or authorized or licensed to use the Complainant’s MICHELIN trademark. In addition, there is no evidence showing that the Respondent is doing either a *bona fide* offering service or a legitimate noncommercial or fair use.

Since the Respondent did not reply to the Complainant’s contentions in this proceeding, the Panel finds on the available record that the Complainant has established an un rebutted *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. See section 2.1 of the [WIPO Overview 3.0](#).

Furthermore, panels have categorically held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. See section 2.13 of the [WIPO Overview 3.0](#). Such illicit conduct is at issue here, considering the evidenced use of the disputed domain name for a fraudulent email scheme.

The above requirement provided for in paragraph 4(a)(ii) of the Policy is accordingly satisfied.

C. Registered and Used in Bad Faith

With regard to the requirement that the Respondent registered the disputed domain name in bad faith, it is highly unlikely that the Respondent would not have known of the Complainant’s right in the trademark at the time of registration of the disputed domain name, since the Complainant is a globally known company manufacturing and marketing many kinds of tires and publishing travel guides, hotel and restaurant guides, maps and road atlases. Therefore, it is found that the Respondent registered the disputed domain name in bad faith.

On the other hand, with regard to the requirement that the Respondent is using the disputed domain name in bad faith, the fact that the disputed domain name was configured with email servers and used in a phishing operation shows that the disputed domain name is being used in bad faith. See section 3.4 of the [WIPO Overview 3.0](#).

The Panel finds that the disputed domain name has been registered in bad faith and is being used in bad faith. The above requirement provided for in paragraph 4(a)(iii) of the Policy is accordingly satisfied.

In conclusion, all three cumulative requirements as provided for in paragraph 4(a) of the Policy are determined to be satisfied.

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 <michelin-com.cc> be transferred to the Complainant.

/Masato Dogauchi/

Masato Dogauchi

Sole Panelist

Date: October 19, 2023