

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. Asaad Kadhum, URUK LLC

Case No. D2022-1537

1. The Parties

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

The Respondent is Asaad Kadhum, URUK LLC, United Arab Emirates.

2. The Domain Name and Registrar

The disputed domain name <micheliniraq.com> is registered with Hosting Concepts B.V. d/b/a Registrar.eu. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 28, 2022. On April 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 29, 2022, 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. The Center sent an email communication to the Complainant on May 10, 2022, 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 May 13, 2022.

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 May 16, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 5, 2022. The Center received email communications from the Respondent on May 31, June 7, and July 7, 2022.

The proceedings were suspended on the Complainant's request from June 7, 2022, until August 15, 2022. The proceeding was reinstated upon the Complainant's request on August 15, 2022.

The Center appointed Fabrizio Bedarida as the sole panelist in this matter on August 23, 2022. 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 world-leading tyre company, manufacturing and marketing tyres for every type of vehicle, including airplanes, automobiles, bicycles/motorcycles, earthmovers, farm equipment, and trucks. It also offers electronic travel support services and publishes travel guides, hotel and restaurant guides, maps, and road atlases.

The Complainant is present in more than 171 countries, has 107,800 employees, and operates 68 production facilities in 17 different countries.

The Complainant is also present with its activities in the United Arab Emirates. In addition to tyres, Michelin offers unique travel experiences through road maps, travel itineraries, hotel and restaurant guides and award-winning lifestyle products.

The Complainant operates the following domain names, among others, incorporating its trademark in order to promote its services: <michelin.com> registered on December 1, 1993, and <michelin.ae>.

The Complainant owns the MICHELIN trademark, which enjoys thorough protection through many registrations worldwide.

The Complainant is, *inter alia*, the owner of:

International Trademark MICHELIN registration No. 771031, dated June 11, 2001; and,

European Union Trade Mark MICHELIN registration No. 004836359, filed on January 4, 2006, and registered on March 13, 2008.

The disputed domain name was registered on December 10, 2021.

The disputed domain name directs to the registrar's default page.

5. Parties' Contentions

A. Complainant

The Complainant claims that:

- (a) the disputed domain name is confusingly similar to the Complainant's trademark;
- (b) the Respondent lacks any rights or legitimate interests in the disputed domain name; and
- (c) the Respondent has registered and is using the disputed domain name in bad faith.

B. Respondent

The Respondent sent several short informal emails on May 31, June 7, and July 7, 2022. In brief, the Respondent said that he works as an advertising agency for a company that the Respondent claims is the exclusive agent for Dunlop Tyres in Iraq and an agent for Michelin Tyres in Iraq, and that recently the agency asked him to add the Michelin logo to their own business card. Then, saying that he had registered the disputed domain name for this client, the Respondent said that he would provide his client with the Authentication Code for them to transfer the disputed domain name to the Complainant.

The Respondent did not claim any other rights to or legitimate interests in the disputed domain name.

6. Discussion and Findings

(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 Complainant has established rights in the MICHELIN trademark.

The disputed domain name consists of the MICHELIN trademark combined with the geographical term "Iraq". This Panel agrees with the Complainant's assertion that the addition of the geographical term "Iraq" in the disputed domain name does not prevent a finding of confusing similarity between the Complainant's trademark and the disputed domain name.

See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8: "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". Furthermore, the applicable generic Top-Level Domain ".net" is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

This Panel finds that the Complainant has made a *prima facie* case that the Respondent does not have rights or legitimate interests in the disputed domain name. The Respondent does not appear to be commonly known by the name "michelin" or by any similar name. The Respondent has no connection to or affiliation with the Complainant and the Complainant has not licensed or otherwise authorized the Respondent to use or register any domain name incorporating the Complainant's trademarks. The Respondent does not appear to make any legitimate noncommercial or fair use of the disputed domain name, nor any use in connection with a *bona fide* offering of goods or services. In fact, the disputed domain name resolves to a Registrar's default page. The Respondent has not replied to the Complainant's contentions (made in the course of this proceeding and before it) claiming any rights or legitimate interests in the disputed domain name. In fact, in response to the Complainant's cease and desist letter, the Respondent tried only to sell the disputed domain name, without asserting any rights or legitimate interests. This contradicts or at least casts doubt on the Respondent's assertion that he registered the disputed domain name for a client, *i.e.* the agent for Michelin Tyres in Iraq.

Moreover, the fact that the disputed domain name consists of the Complainant's trademark along with a geographic term carries with it a risk of implied affiliation, potentially conveying to unsuspecting Internet users the false belief that any website related thereto would be associated or endorsed with the Complainant's official services in the country of Iraq. See [WIPO Overview 3.0](#), section 2.5.1. Given the lack of corroborating evidence as to the Respondent's alleged relation to an agent of the Complainant, as well as the Complainant's contentions to the contrary, the construction of the disputed domain name further underscores the Respondent's awareness of and intent to capitalize on the reputation and goodwill of the Complainant's trademark and reputation.

The Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy

C. Registered and Used in Bad Faith

The Panel, based on the evidence presented, accepts and agrees with the Complainant's contentions that the disputed domain name was registered and has been used in bad faith.

Indeed, the Complainant gives several bases for its contention that the disputed domain name was registered and is being used in bad faith.

"Michelin" is not a common or descriptive term, but a worldwide renowned trademark.

The disputed domain name was registered many years after the Complainant's renowned trademark was registered. In addition, owing to the substantial presence established worldwide and on the Internet by the Complainant, it is at the least very unlikely that the Respondent was not aware of the existence of the Complainant's trademark when registering the disputed domain name that is confusingly similar to the Complainant's trademark.

Therefore, it is more likely than not that the Respondent, when registering the disputed domain name, had knowledge of the Complainant's earlier rights to the MICHELIN trademark.

The Respondent's assertion that he registered the disputed domain name upon request from a client (*i.e.* an agent for Michelin Tyres in Iraq) to add the Michelin logo to their own business card confirms that the Respondent, when registering the disputed domain name, was aware of the Complainant's trademark and logo.

Having regard to the distinctiveness of the mark MICHELIN, the Panel is of the view that Internet users would be misled by the disputed domain name into the expectation that they would reach a website operated by the Complainant. The Panel therefore finds that such holding and use of the disputed domain name in the circumstances of the case does not prevent a finding of bad faith registration and use. On the contrary, this Panel agrees with previous UDRP panels' assertion that in the case of domain names containing well-known earlier marks, the registration of such marks without authorization by an unaffiliated entity can constitute an indication of bad faith.

Here the Panel finds that the Respondent's current holding of the disputed domain name constitutes bad faith use and registration as well as a disruption of the Complainant's business.

The bad faith registration and use of the disputed domain name is also affirmed by the fact that the Respondent has not denied the assertions of bad faith made by the Complainant in this proceeding and the fact that the Panel is unable to determine any plausible good faith use to which the disputed domain name may be put.

In fact, the Respondent's claim that he registered the disputed domain name for a client (*i.e.* the alleged exclusive agent for Dunlop Tyres and an agent for Michelin Tyres in Iraq) is contradicted by his previous communication to the Complainant's representative in which, in response to the Complainant's cease and

desist letter, the Respondent tried only to sell the disputed domain name to the Complainant, without asserting any rights to or legitimate interests in that domain name.

If the Respondent had indeed registered the disputed domain name in good faith and on behalf of an agent for Michelin Tyres in Iraq, one could reasonably expect that his reply would have been quite different.

In addition, in the course of this proceeding, the Respondent said that he was willing to give the Authentication Code to his client so that they could then transfer the disputed domain name to the Complainant. However, after being told that in order to transfer the disputed domain name to the Complainant he would simply need to sign a settlement form (and despite several explanatory communications and reminders) he refused to do so. The purported client did not take part in the proceeding and, as far as can be seen from the documents available to the Panel, the client was not even informed of it.

Accordingly, the Panel finds, based on the evidence presented, that the Respondent registered and is using the disputed domain name in bad faith. Therefore, the Complainant has satisfied paragraph 4(a)(iii) 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, <micheliniraq.com>, be transferred to the Complainant.

/Fabrizio Bedarida/

Fabrizio Bedarida

Sole Panelist

Date: September 6, 2022