

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. Super Privacy
Service LTD c/o Dynadot/ Wu Yu
Case No. D2022-2780

1. The Parties

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

The Respondent is Super Privacy Service LTD c/o Dynadot, United States of America/ Wu Yu, China.

2. The Domain Name and Registrar

The disputed domain name <muchelin-lifestyle.com> (“the Domain Name”) is registered with Dynadot, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 28, 2022. On July 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On August 2, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on August 2, 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 August 5, 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 August 8, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 28, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 29, 2022.

The Center appointed Dawn Osborne as the sole panelist in this matter on August 31, 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 owns the trade mark MICHELIN registered, *inter alia*, in China as registration No. 136402 since 1980 for tyres.

The Domain Name registered in 2022 has been used for pay-per-click (“PPC”) commercial links and offered for sale generally.

5. Parties’ Contentions

A. Complainant

The Complainant owns the trade mark MICHELIN registered, *inter alia*, in China since 1980 for tyres. It operates using a number of domain names containing MICHELIN including <michelin-lifestyle.com>.

The Domain Name registered in 2022 is confusingly similar to the Complainant’s MICHELIN mark substituting the first letter “i” with a letter “u” and adding a hyphen, the generic word “lifestyle” and the generic Top-Level Domain (“gTLD”) “.com” which does not prevent said confusing similarity.

The Respondent does not have any rights or legitimate interests in the Domain Name, is not commonly known by it and is not authorised by the Complainant.

The Domain Name has been used for commercial PPC links and has also been offered for sale neither of which is a *bona fide* offering of goods or services or a legitimate non commercial or fair use. It is registration and use in bad faith.

The Domain Name is a typosquatting registration different by only one letter from the Complainant’s domain name <michelin-lifestyle.com>. Typosquatting is also an indication of a lack of rights or legitimate interests and an indication of bad faith *per se*.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Domain Name includes a sign confusingly similar to the Complainant’s MICHELIN mark (which is registered in China for tyres since 1980) merely replacing the first letter “i” with a letter “u” and adding a hyphen, the dictionary word “lifestyle” and the gTLD “.com”.

The Panel agrees that misspellings of a complainant’s mark in a domain name do not prevent confusing similarity between that domain name and the complainant’s trade mark pursuant to the Policy. As such substituting a letter ‘u’ for a letter ‘i’ in the Complainant’s mark does not prevent the Domain Name being confusingly similar to that mark which is still recognizable in the Domain Name. Nor does the addition of a hyphen.

Previous panels have found confusing similarity when a respondent merely adds a dictionary word to a sign

confusingly similar to a complainant's mark. The Panel agrees that the addition of the dictionary word 'lifestyle' does not prevent the Complainant's trade mark being recognizable in the Domain Name pursuant to the Policy.

The gTLD ".com" being an integral part of a domain name does not serve to distinguish the Domain Name from the Complainant's mark.

Accordingly, the Panel holds that the Domain Name is confusingly similar for the purpose of the Policy to a mark in which the Complainant has rights.

As such the Panel holds that paragraph 4 (a)(i) of the Policy has been satisfied.

B. Rights or Legitimate Interests

The Complainant has not authorised the use of its mark. There is no evidence or reason to suggest the Respondent is, in fact, commonly known by the Domain Name.

The Respondent has used the site attached to the Domain Name to link to third party businesses. It is not clear that there is no commercial connection with the Complainant. PPC links are not a *bona fide* offering of goods and services or a legitimate noncommercial or fair use in these circumstances.

The Domain Name appears to be a typosquatting registration differing from the Complainant's domain name <michelin-lifestyle.com> by only one letter and has been offered for sale generally. Typosquatting and offering a domain name for sale are also indicative of a lack of rights or legitimate interests.

The Respondent has not answered this Complaint or explained why it should be allowed to register a domain name containing a sign confusingly similar to the Complainant's mark and point it to commercial PPC links and offer it for sale generally.

As such the Panelist finds that the Respondent does not have rights or a legitimate interest in the Domain Name and that the Complainant has satisfied the second limb of the Policy.

C. Registered and Used in Bad Faith

In the opinion of the Panel, the use made of the Domain Name in relation to commercial PPC links is confusing and disruptive. Accordingly, the Panel holds 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 trade mark as to the source, sponsorship, affiliation or endorsement of the web site and services or products offered on it likely to disrupt the business of the Complainant. Typosquatting is an indication of bad faith *per se*. Further the Domain Name has been offered for sale generally, also indicating bad faith in these circumstances.

As such, the Panel holds that the Complainant has made out its case that the Domain Name was registered and used in bad faith and has satisfied the third limb of the Policy under Policy 4(b)(i), (iii) and (iv).

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 <muchelin-lifestyle.com> be transferred to the Complainant.

/Dawn Osborne/

Dawn Osborne

Sole Panelist

Date: September 13, 2022