

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. Domains By Proxy, LLC
/ Kleber Domingos Lopes Batalha
Case No. D2022-3369

1. The Parties

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

The Respondent is Domains By Proxy, LLC, United States of America (“U.S.”) / Kleber Domingos Lopes Batalha, Brazil.

2. The Domain Name and Registrar

The disputed domain name <vendasmichelin.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 9, 2022. On September 12, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 13, 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 September 14, 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 September 15, 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 September 19, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 9, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 10, 2022.

The Center appointed Gonalo M. C. Da Cunha Ferreira as the sole panelist in this matter on October 17, 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 Compagnie G n rale des Etablissements Michelin ("Michelin"), one of the leading tire companies worldwide, which is dedicated to enhancing its clients' mobility, sustainably, designing and distributing tires, services and solutions for its clients' needs, providing digital services, maps and guides to help enrich trips and travels, and develop high technology materials that serve the mobility industry.

The operation of the Complainant under the trademark Michelin is present in 170 countries, and the company has more than 124,000 employees, and operates 117 tire manufacturing facilities and sales agencies in 26 countries.

The Complainant proves that is, *inter alia*, the owner of the following Trademark Registrations:

U.S. trademark MICHELIN No. 4126565, filed on January 19, 2011 and registered on April 10, 2012, duly renewed since then, and covering services in classes 36, 37, and 39;

U.S. Trademark MICHELIN No. 1399361, filed on May 28, 1985 and registered on July 1, 1986, duly renewed since then, and covering goods and services in classes 16, 25, and 28;

International Trademark MICHELIN No. 771031, registered on June 11, 2001, duly renewed since then, and covering goods and services in classes 5, 7, 8, 9, 10, 11, 12, 16, 17, 18, 20, 21, 24, 25, 39, and 42.

The Michelin brand is amongst the top-selling tire brands worldwide and it is No. 1 Best Large Employer in America on Forbes 2018 "America's Best Employer" list with 88 total awards for initial quality from J.D. Power & Associates, four times more awards than all other tire manufacturers combined, and ranking highest in "original equipment tires" category in the U.S. for 2018.

The Complainant operates, among others, the following domain name reflecting its trademarks in order to promote its services <michelin.com>, registered on December 1, 1993.

The disputed domain name was registered on July 21, 2022, and redirected towards a website in Portuguese that impersonated the Complainant by reproducing its trademark MICHELIN, its mascot the Michelin Man, its logo and visuals and purportedly offering tires for sale.

On July 26, 2022, the Complainant sent a cease-and-desist letter to the Respondent via the Registrar itself and the online form provided by the Registrar, asserting its trademark rights and requesting them to transfer the domain name <vendasmichelin.com> to the Complainant free of charge.

The Complainant sent several reminders and the Respondent failed to provide any response. The Complainant also sent a notification to the Registrar requesting the blocking of the disputed domain name. Over the course of the Complainant's communication with the Registrar and multiple reminders, the infringing website was removed and the disputed domain name currently directs to an error page.

5. Parties' Contentions

A. Complainant

The Complainant claims that:

- a) The domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights since it i) incorporates the Complainant's whole name and its trademark in its entirety, and ii) despite the disputed domain name associates the Complainant's trademark to the term "vendás", that doesn't prevent a finding of confusing similarity between a trademark and a domain name.
- b) The Respondent has no rights or legitimate interests in respect of the disputed domain name since i) the Complainant has not given authorization to the Respondent or licensed the use of the disputed domain name, ii) currently the disputed domain name does not resolve to an active webpage, and iii) the Respondent's use of the disputed domain name is not associated with a *bona fide* offering of goods or services.
- c) The domain name was registered and is being used in bad faith since the Complainant's trademark is distinctive and well known. The disputed domain name contains the distinctive trademark and indicates that the Respondent was well aware of the Complainant's trademark when registering the disputed domain name. The disputed domain name resolved to an active webpage redirected towards a fake website in Portuguese that impersonated the Complainant by reproducing its trademark MICHELIN, its mascot the Michelin Man, its logo and visuals and offering tires for sale and targeted the Complainant's trademark.

The Complainant highlights that, before starting the present proceedings, made some efforts to resolve this matter amicably by sending a cease-and-desist letter and several reminders, nevertheless the Respondent failed to provide any response

B. Respondent

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

6. Discussion and Findings

6.A. Substantive Matters

Paragraph 15(a) of the Rules instructs the Panel to decide the Complaint based on the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Under paragraph 4(a) of the Policy, 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;
- (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.

Paragraph 4(b) of the Policy sets out four non-exhaustive illustrative circumstances, which for the purposes of paragraph 4(a)(iii) of the Policy, shall be evidence of registration and use of a domain name in bad faith.

Paragraph 4(c) of the Policy sets out three non-exhaustive illustrative circumstances any one of which, if prove by the Respondent, shall be evidence of the Respondent's rights to or legitimate interests in the

disputed domain name for the purpose of paragraph 4(a)(ii) of the Policy above.

A. Identical or Confusingly Similar

The disputed domain name incorporates the Complainant's trademark MICHELIN in its entirety. The disputed domain name combines these trademark and add the word "vendas" in Portuguese, that means "sales" in English. As the trademark is clearly recognizable within the disputed domain name, the addition of this word does not prevent a finding of confusing similarity.

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark and the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Panel finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. As highlighted in several previous UDRP decisions, in such a case the burden of production shifts to the Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 2.1). The Respondent has no connection to or affiliation with the Complainant and the Complainant has not licensed nor given its consent to 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 service. In fact, the disputed domain name resolves to the Registrar's default page indicating it is not available.

In addition, the nature of the disputed domain name (incorporating the Complainant's trademark in its entirety with the addition of the word "vendas", meaning "sales" in Portuguese) suggests implied affiliation with the Complainant. See [WIPO Overview 3.0](#), section 2.5.1.

The Respondent did not submit a response and has failed to invoke any circumstance which could have demonstrated rights or legitimate interests in the disputed domain name under paragraph 4(c) of the Policy.

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.

It is clear for the Panel that the Respondent knowingly registered the disputed domain name that is confusingly similar to the trademark belonging to the Complainant. The disputed domain name reproduces the Complainant's trademark in its entirety, which previous panels have considered to be "well-known" or "famous" (*Compagnie Générale des Etablissements Michelin v. Shuitu Chen*, WIPO Case No. [D2016-1924](#), *Compagnie Générale des Etablissements Michelin v. Isaac Goldstein, Hulmiho Ukolen, Poste restante/Domain Admin, Whois protection, this company does not own this domain name s.r.o.*, WIPO Case No. [D2015-1787](#), *Compagnie Générale des Etablissements Michelin v. Oncu, Ibrahim Gonullu*, WIPO Case No. [D2014-1240](#), *Compagnie Générale des Etablissements Michelin (Michelin) v. Zhichao Yang*, WIPO Case No. [D2013-1418](#), *Compagnie Générale des Etablissements Michelin v. Milan Kovac/Privacy--Protect.org*, WIPO Case No. [D2012-0634](#), *Compagnie Générale des Etablissements Michelin v. Vyacheslav Nechaev*, WIPO Case No. [D2012-0384](#), and *Compagnie Générale des Etablissements Michelin v. Transure Enterprise Ltd, Host Master / Above.com Domain Privacy*, WIPO Case No. [D2012-0045](#)).

The fact that the disputed domain name <vendasmichelin.com> redirected towards a fake website in Portuguese that impersonated the Complainant by reproducing its trademark MICHELIN, its mascot the

Michelin Man, its logo, and visuals and purportedly offering tires for sale and the fact that, over the course of Complainant's communication with the Registrar, the infringing website was removed and the disputed domain name directed to an error page reinforce the conviction of the Panel.

Lastly, the nature of the disputed domain name also points to the bad faith of the Respondent since Panels have consistently found that the mere registration of a domain name that is confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. See WIPO Overview, section 3.1.4.

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, <vendasmichelin.com>, be transferred to the Complainant.

/Gonçalo M. C. Da Cunha Ferreira/

Gonçalo M. C. Da Cunha Ferreira

Sole Panelist

Date: October 31, 2022