

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. Gergana Raycheva,
Edoms LLC
Case No. D2022-3901

1. The Parties

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

The Respondent is Gergana Raycheva, Edoms LLC, Bulgaria.

2. The Domain Name and Registrar

The disputed domain name <netamichelin.net> is registered with DropCatch.com 348 LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 18, 2022. On October 18, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 19, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 November 2, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 22, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 23, 2022.

The Center appointed Andrea Mondini as the sole panelist in this matter on December 5, 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 leading tire company with more than 124,000 employees in 170 countries. The Complainant also publishes the Michelin Guide, which since 1926 has been awarding stars for fine dining establishments.

The Complainant owns numerous trademarks for the word mark MICHELIN, *inter alia*, the European Union Trademark registration No. 001791243 registered on October 24, 2001, and the Bulgarian trademark registration No. 00008562 registered on August 21, 1972.

The Complainant also holds the domain name <michelin.com>.

The disputed domain name was registered on July 27, 2021.

The disputed domain name redirects variously, including to a parking page containing pay-per-click links.

5. Parties' Contentions

A. Complainant

The Complainant contends as follows:

Before starting the present proceeding, the Complainant contacted the Registrar and also sent a cease and desist letter to the Respondent who replied on July 31, 2022: "You can buy the domain name for a cost covering sum or use the dispute mechanisms." As no amicable settlement could be found, the Complainant initiated the present proceedings. After initiation of these proceedings, the Respondent contacted again the Complainant asking whether the Complainant would buy the disputed domain name "for a cost-covering price". The Complainant insisted on a transfer free of charge, but the Respondent replied on November 10, 2022: "Not gonna happen free of charge though, you can waste your client's money for the dispute fee then. If you want a settlement, pay our costs."

The disputed domain name is confusingly similar to the MICHELIN trademark in which the Complainant has rights, because it incorporates this trademark in its entirety, and the addition of the generic term "neta" is not sufficient to avoid confusing similarity.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The trademark MICHELIN is famous. The Respondent has not been authorized by the Complainant to use this trademark and there is no evidence of the Respondent's use, or demonstrable preparation to use, the disputed domain name in connection with a *bona fide* offering of goods and services. The disputed domain name redirects Internet users variously including to a parking page with pay-per-click links which are likely to generate revenues. Hence, it cannot be inferred that the Respondent is making a legitimate noncommercial or fair use of disputed domain name. Rather, it appears that the Respondent registered it for the purpose of selling it to the Complainant, as shown by the correspondence between the parties.

The disputed domain name was registered and is being used in bad faith because there can be no doubt that the Respondent had knowledge of both the Complainant and of its famous trademark MICHELIN at the time it registered the disputed domain name, and because the use of the disputed domain name to redirect Internet users variously including to a webpage providing pay-per-click revenues to the Respondent evidences use in bad faith. Moreover, the correspondence with the Respondent makes it clear that the Respondent registered the disputed domain name hoping to sell it to the Complainant or a competitor. Furthermore, an email server has been configured on the disputed domain name, thus creating a risk that the Respondent may engage in a phishing scheme.

B. Respondent

The Respondent did not reply to the Complainant's contentions (but, as mentioned above, the Respondent wrote directly to the Complainant offering to sell the disputed domain name for a cost-covering sum).

6. Discussion and Findings

According to paragraph 4(a) of the Policy, in order to succeed, a complainant must establish each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to the 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 Panel is satisfied that the Complainant owns trademark registrations for its MICHELIN trademark.

The Panel notes that the disputed domain name incorporates the MICHELIN trademark in its entirety. In view of the Panel, the addition of the term "neta" (irrespective of its meaning in any language) to the famous trademark MICHELIN does not prevent a finding of confusing similarity under Policy, paragraph 4(a)(i). See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8.

For these reasons, the Panel concludes that the disputed domain name is confusingly similar to the Complainant's mark MICHELIN.

The first element of paragraph 4(a) of the Policy has been met.

B. Rights or Legitimate Interests

The Complainant states that it has not authorized the Respondent to use the trademark MICHELIN and that before notice of the dispute, there is no evidence of the Respondent's use, or demonstrable preparation to use, the disputed domain name. The Panel does not see any contrary evidence from the record.

In the view of the Panel, the Complainant has succeeded in raising a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. For its part, the Respondent failed to provide any evidence or explanations as to any rights or legitimate interests. Therefore, the Panel finds that the Respondent does not have any rights or legitimate interests in the disputed domain name.

Furthermore, the nature of the disputed domain name, comprising the Complainant's famous MICHELIN trademark and the term "neta", carries a risk of implied affiliation. See [WIPO Overview 3.0](#), section 2.5.1.

The second element of paragraph 4(a) of the Policy has been met.

C. Registered and Used in Bad Faith

The Complainant has shown to the satisfaction of the Panel that its MICHELIN trademark is famous.

In the view of the Panel, it is inconceivable that the Respondent could have registered the disputed domain name without knowledge of the Complainant's famous trademark. In the circumstances of this case, this is evidence of registration in bad faith.

The use of the disputed domain name incorporating the famous MICHELIN mark to redirect Internet users variously including to a webpage that is likely to provide pay-per-click revenues to the Respondent is evidence of use in bad faith. The correspondence between the Parties makes it clear that the Respondent registered the disputed domain name hoping to sell it to the Complainant: even though the Respondent routinely stated that he would sell it “for a cost covering sum”, there is no indication of the Respondent’s own *bona fide* use of the disputed domain name. Furthermore, the Respondent furnished incorrect contact information when registering the disputed domain name, evidenced by the inability of the courier to deliver the Center’s written communication to the address disclosed by the Registrar for the Respondent.

Considering all of these circumstances, the Panel thus finds that the disputed domain name was registered and is being used in bad faith.

The third element of paragraph 4(a) of the Policy has been met.

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, <netamichelin.net>, be transferred to the Complainant.

/Andrea Mondini/

Andrea Mondini

Sole Panelist

Date: December 19, 2022