

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. 隋洪军, 华泽石化（大连）有限公司

Case No. D2023-2708

1. The Parties

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

Respondent is 隋洪军, 华泽石化（大连）有限公司, China.

2. The Domain Name and Registrar

The disputed domain name <米其林. 在线> (<xn--g6q625cxxo.xn--3ds443g>) (the “Domain Name”) is registered with Domain (Shanghai) Network Technology Co., Ltd (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on June 23, 2023. On June 26, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On June 29 and June 30, 2023, the Registrar transmitted by email to the Center its verification responses disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Not disclosed) and contact information in the Complaint. The Center sent an email communication to Complainant on July 5, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint in English on July 7, 2023.

On July 5, 2023, the Center sent another email communication to the Parties in Chinese and English regarding the language of the proceeding. On July 7, 2023, Complainant confirmed its request that English be the language of the proceeding. Respondent did not submit any comment on the language of the proceeding.

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 Respondent in Chinese and English of the Complaint, and the proceedings commenced on July 12, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 1, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on August 4, 2023.

The Center appointed Kimberley Chen Nobles as the sole panelist in this matter on August 17, 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

Complainant, Compagnie Générale des Etablissements Michelin, is a tire company headquartered in France, which designs, develops and distributes tires, provides digital services, maps and guides for trips and travels and develops materials for the travel industry. Complainant is present in 170 countries, with over 124,000 employees and operates 117 tire manufacturing facilities and sales agencies in 26 countries.

In 1989, Complainant started its first representative office in Beijing. In 1995, Complainant set up its first manufacturing company in China, Michelin Shenyang Tire Co., Ltd. Since then, it had relocated and built a new factory in China with approximately USD 1.5 billion in 2013. Complainant also has a research and development company, manufacturing and investment service companies in Shanghai. Complainant's investment in China is currently estimated to be over USD 2 billion, with around 7, 000 employees.

Complainant owns numerous registered trademarks in the 米其林 (Michelin in Chinese) mark, including:

- Chinese trademark No. 519749 米其林, registered on May 20, 1990;
- Chinese trademark No. 519641 米其林, registered on May 20, 1990;
- Chinese trademark No. 10574976 米其林, registered on December 14, 2013; and
- Chinese trademark No. 6167650 米其林, registered on February 28, 2011.

In addition, Complainant also operates several domain names reflecting its trademarks to promote its services, including:

- <michelin.com>, registered on December 1, 1993;
- <michelin.com.cn>, registered on June 16, 2001; and
- <michelin.online>, registered on August 19, 2015.

The Domain Name was registered on January 6, 2023. The Domain Name initially redirected to a Chinese website featuring a Chinese chemical company named 盘锦运通化工有限公司 (Panjin Yuntong Chemical Co., Ltd.) specializing in petrochemicals, and at the time of filing of the Complaint, the Domain Name resolved to another Chinese website displaying the information about the registration of the “.在线” (“ .online” extension. An email server was also configured on the Domain Name.

On February 1, 2023, Complainant sent a cease-and-desist letter to Respondent, along with a notification to the Registrar, to attempt to resolve the current matter. Several reminders followed, but no response was received.

5. Parties' Contentions

A. Complainant

Complainant contends that (i) the Domain Name is identical or confusingly similar to Complainant's trademarks; (ii) Respondent has no rights or legitimate interests in the Domain Name; and (iii) Respondent registered and is using the Domain Name in bad faith.

In particular, Complainant contends that it has trademark registrations for 米其林 and that Respondent registered and is using the Domain Name with the intention to confuse Internet users looking for *bona fide* and well-known 米其林 products and services.

Complainant notes that it has no affiliation with Respondent, nor authorized Respondent to register or use a domain name, which includes Complainant's trademarks, and that Respondent has no rights or legitimate interests in the registration and use of the Domain Name. Rather, Complainant contends that Respondent has acted in bad faith in acquiring and setting up the Domain Name, when Respondent clearly knew of Complainant's rights.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

6.1. Preliminary Issue: Language of the Proceeding

The Rules, in paragraph 11(a), provide that unless otherwise agreed by the parties or specified otherwise in the registration agreement between the respondent and the registrar in relation to the disputed domain name, the language of the proceeding shall be the language of the registration agreement, subject to the authority of the panel to determine otherwise, having regard to the circumstances of the administrative proceeding. According to the information received from the Registrar, the language of the Registration Agreement for the Domain Name is Chinese.

Complainant submitted its original Complaint in English. In its email dated July 7, 2023, Complainant confirmed its request that the language of the proceeding should be English. Complainant mainly submits that it is located in France and has no knowledge of Chinese and asserts that holding the proceeding in Chinese would cause considerable extra expense and burden on Complainant. Complainant also contends that English is the primary language for international relations and is one of the working languages of the Center.

In exercising its discretion to use a language other than that of the Registration Agreement for the Domain Name, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both Parties, taking into account all relevant circumstances of the case, including matters such as the Parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

The Panel accepts Complainant's submissions regarding the language of the proceeding. The Panel also notes that the Domain Name is identical to Complainant's 米其林 trademarks. The Panel further notes that the Center notified the Parties in Chinese and English of the language of the proceeding as well as notified Respondent in Chinese and English of the Complaint. Respondent chose not to comment on the language of the proceeding, nor did Respondent choose to file a Response in Chinese or English.

The Panel is also mindful of the need to ensure that the proceedings are conducted in a timely and cost-effective manner. Complainant may be unduly disadvantaged by having to translate the Complaint into Chinese and to conduct the proceeding in Chinese.

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

6.2. Substantive Issues

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name was registered and is being used in bad faith.

Section 4.3 of the [WIPO Overview 3.0](#) states that failure to respond to a complainant's contentions would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that a complainant's claims are true.

Thus, although in this case Respondent has failed to respond to the Complaint, the burden of proof remains with Complainant to establish the three elements of paragraph 4(a) of the Policy by a preponderance of the evidence. See, e.g., *The Knot, Inc. v. In Knot We Trust LTD*, WIPO Case No. [D2006-0340](#).

A. Identical or Confusingly Similar

Ownership of a trademark registration is generally sufficient evidence that a complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. See [WIPO Overview 3.0](#), section 1.2.1. Complainant has provided evidence of its rights in the 米其林 trademarks, as noted above. Complainant has also submitted evidence, which supports that the 米其林 trademarks are widely known and a source identifier of Complainant's products and services. Complainant has therefore proven that it has the requisite rights in the 米其林 trademarks.

With Complainant's rights in the 米其林 trademarks established, the remaining question under the first element of the Policy is whether the Domain Name, typically disregarding the Top-Level Domain ("TLD") in which it is registered (in this case, ".在线" – which means "online" in Chinese), is identical or confusingly similar to Complainant's trademark. See, e.g., *B & H Foto & Electronics Corp. v. Domains by Proxy, Inc. / Joseph Gross*, WIPO Case No. [D2010-0842](#).

Here, the Domain Name is identical to Complainant's 米其林 trademarks. In particular, the Domain Name includes Complainant's trademark 米其林 in its entirety. See [WIPO Overview 3.0](#), section 1.7.

Thus, the Panel finds that Complainant has satisfied the first element of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant must make a *prima facie* showing that a respondent possesses no rights or legitimate interests in a disputed domain name. See, e.g., *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#). Once a complainant makes such a *prima facie* showing, the burden of production shifts to the respondent, though the burden of proof always remains on the complainant. If the respondent fails to come forward with relevant evidence showing rights or legitimate interests, the complainant will have sustained its burden under the second element of the UDRP.

From the record in this case, it is evident that Respondent was, and is, aware of Complainant and its 米其林 trademarks, and does not have any rights or legitimate interests in the Domain Name. Complainant has confirmed that Respondent is not affiliated with Complainant, or otherwise authorized or licensed to use the 米其林 trademarks or to seek registration of any domain name incorporating the trademarks. Respondent is also not known to be associated with the 米其林 trademarks, and there is no evidence showing that Respondent has been commonly known by the Domain Name.

In addition, Respondent has not used the Domain Name in connection with a *bona fide* offering of goods or services or a legitimate noncommercial or fair use. Rather, the Domain Name initially redirected to a Chinese website featuring a Chinese chemical company named 盘锦运通化工有限公司 (Panjin Yuntong Chemical Co., Ltd.) specializing in petrochemicals, and at the time of filing of the Complaint, the Domain Name resolved to another Chinese website displaying the information about the registration of the “.在线” (“online”) extension. The record shows that the Domain Name was also configured with an email server, which indicates an interest by Respondent to establish communication with Internet users and possibly to conduct phishing activities. Such use does not constitute a *bona fide* offering of goods or services or a legitimate noncommercial or fair use and cannot under the circumstances confer on Respondent any rights or legitimate interests in the Domain Name. See, e.g., *Intesa Sanpaolo S.p.A. v. Charles Duke / Oneandone Private Registration*, WIPO Case No. [D2013-0875](#).

Accordingly, Complainant has established its *prima facie* claim that Respondent lacks any rights or legitimate interests in the Domain Name. Respondent has failed to produce countervailing evidence of any rights or legitimate interests in the Domain Name. Thus, the Panel concludes that Respondent does not have any rights or legitimate interests in the Domain Name and Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that Respondent's actions indicate that Respondent registered and is using the Domain Name in bad faith.

Paragraph 4(b) of the Policy provides a non-exhaustive list of circumstances indicating bad faith registration and use on the part of a domain name registrant, namely:

“(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location.”

The Panel finds that Complainant has provided ample evidence to show that registration and use of the 米其林 trademarks long predate the registration of the Domain Name. Complainant is also well established and known including in China. Indeed, the record shows that Complainant's 米其林 trademarks and related products and services are widely known and recognized. Therefore, Respondent was likely aware of the 米其林 trademarks when it registered the Domain Name. See [WIPO Overview 3.0](#), section 3.2.2.

The Panel therefore finds that Respondent's awareness of Complainant's trademark rights at the time of registration suggests bad faith. See *Red Bull GmbH v. Credit du Léman SA, Jean-Denis Deletraz*, WIPO Case No. [D2011-2209](#); *Nintendo of America Inc v. Marco Beijen, Beijen Consulting, Pokemon Fan Clubs Org., and Pokemon Fans Unite*, WIPO Case No. [D2001-1070](#); *BellSouth Intellectual Property Corporation v. Serena, Axel*, WIPO Case No. [D2006-0007](#).

Further, the registration of the Domain Name incorporating Complainant's 米其林 trademark in its entirety suggests Respondent's actual knowledge of Complainant's rights in the 米其林 trademark at the time of registration of the Domain Name and its effort to opportunistically capitalize on the registration and use of the Domain Name. Respondent registered and is using the Domain Name to confuse and mislead consumers looking for *bona fide* and well-known 米其林 products and services of Complainant or authorized partners of Complainant. The use of the 米其林 mark as the dominant part of the Domain Name is intended to capture Internet traffic from Internet users who are looking for Complainant's products and services.

Moreover, the Domain Name initially redirected to a Chinese website featuring a Chinese chemical company named 盘锦运通化工有限公司 (Panjin Yuntong Chemical Co., Ltd.) specializing in petrochemicals, and at the time of filing of the Complaint, the Domain Name resolved to another Chinese website displaying the information about the registration of the “.在线” (“online”) extension. The Domain Name was also configured with an email server, which indicates Respondent's interest in establishing communication with Internet users, and possibly in conducting phishing activities. The use of Complainant's 米其林 trademark in the Domain Name could result in causing confusion with and disruption of Complainant's business activities. It may confuse Internet users who are looking for Complainant's legitimate website and deceive Internet users into thinking that Respondent is somehow connected to Complainant, which is not the case. In addition, it may confuse Internet users into think that Complainant is involved or associated with third parties as featured on the web links on the site diverted by the Domain Name, which is also not the case.

Finally, the Panel also notes the reputation of the 米其林 trademarks, the failure of Respondent to submit a response or to provide any evidence of actual or contemplated good faith use, and the implausibility of any good faith use to which the Domain Name may be put.

Accordingly, the Panel finds that Respondent has registered and is using the Domain Name in bad faith and Complainant succeeds under the third element of paragraph 4(a) 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 Domain Name <米其林.在线> (<xn--g6q625cxo.xn--3ds443g>) be transferred to Complainant.

/Kimberley Chen Nobles/

Kimberley Chen Nobles

Sole Panelist

Date: August 31, 2023