

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. 李红波 (Hong Bo Li)
Case No. D2024-2223

1. The Parties

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

The Respondent is 李红波 (Hong Bo Li), China.

2. The Domain Name and Registrar

The disputed domain name <bfgoodrichtres.com> is registered with Chengdu West Dimension Digital Technology Co., Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on May 30, 2024. On May 31, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 3, 2024, 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 (Not disclosed) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 3, 2024 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 in English on June 4, 2024.

On June 3, 2024, the Center informed the parties in Chinese and English, that the language of the registration agreement for the disputed domain name is Chinese. On June 4, 2024, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

On June 5, 2024, the Respondent sent emails in English which offered to sell the disputed domain name to the Complainant for \$100 (currency not indicated). The Center sent an email regarding the possible settlement to the Parties. On June 11, 2024, the Complainant requested suspension of the proceeding. On June 11, 2024, the Center confirmed that the proceeding was suspended until July 11, 2024. On July 8, 2024, the Complainant requested reinstatement of the proceeding. On July 9, 2024, the Center confirmed that the proceeding was reinstated as of July 9, 2024.

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 in English and Chinese of the Complaint, and the proceedings commenced on July 9, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 29, 2024. The Respondent did not submit any formal response. Accordingly, the Center notified the commencement of panel appointment process on July 30, 2024.

The Center appointed Rachel Tan as the sole panelist in this matter on August 5, 2024. 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

Headquartered in France, the Complainant is an established global tyre company. As of today, the Complainant and its affiliates have a commercial presence in 170 countries and over 123 production sites in 26 countries. In China, the Complainant has set up various manufacturing companies with around 7,000 employees. The Complainant’s total investment in China alone exceeds around USD 2 billion.

The Complainant and its related entities are the owner of BFGOODRICH mark in different jurisdictions. For example, French Registration No. 3447866 for BFGOODRICH filed on August 29, 2006 in Class 12 and Chinese Registration No. 292648 for BFGOODRICH registered on July 10, 1987 in Class 12.

The Complainant is also the registrant of numerous domain names incorporating the BFGOODRICH mark, for example <bfgoodrichtires.com> (registered on June 19, 1997) and <bfgoodrich.com> (registered on August 15, 1996). The Complainant has used its BFGOODRICH mark on the websites to promote its goods and services.

The disputed domain name was registered on January 5, 2024. On March 18, 2024, the Complainant sent a cease-and-desist letter to the Respondent via the Registrar. On April 9, 2024, the Registrar confirmed that the letter was forwarded to the Respondent. The Complainant claimed that there was no response from the Respondent to the letter despite multiple reminders. Consequently, they filed the Complaint with the Center on May 30, 2024. After the filing of the Complaint, the Respondent replied that he was willing to sell the disputed domain name and the proceeding was suspended. The Complainant eventually requested reinstatement of the proceeding.

At the date of the Complaint and the Decision, the disputed domain name resolved to an active pay-per-click (“PPC”) webpage that lists out multiple third-party links related to tyres advertisements. The Complainant also submitted evidence that an email server has been configured on the disputed domain name.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant argues that the disputed domain name is identical or confusingly similar to the Complainant’s BFGOODRICH mark. The disputed domain name fully incorporates the BFGOODRICH mark in entirety. The additional term “tres” is a misspelling of the word “tires” which is a generic and descriptive

term and cannot distinguish the disputed domain name from the Complainant's mark. On the contrary, the additional term increases the likelihood of confusion because it makes direct reference to the Complainant's filed of activity. The likelihood of confusion is even more prominent having in mind the close similarity to the Complainant's official domain name.

The Complainant further alleges that the Respondent does not have any rights or legitimate interests in the disputed domain name. The Respondent is not affiliated with the Complainant and does not have any authorization to register and use the disputed domain name by incorporating the Complainant's BFGOODRICH mark. There is no evidence that the Respondent is commonly known by the disputed domain name. Moreover, the disputed domain name is so identical to the Complainant's BFGOODRICH mark and its official domain names that the Respondent cannot reasonably pretend it was intending to develop a legitimate activity through the disputed domain name. Further, the Respondent has used the disputed domain name to divert Internet traffic to various websites to generate revenue known as PPC advertising. The Respondent has not operated any bona fide or legitimate business under the disputed domain name and is not making a protected noncommercial or fair use of the same.

The Complainant finally asserts that the disputed domain name was registered and is being used in bad faith. Given the well-known status of the Complainant's BFGOODRICH mark, the Respondent must have knowledge of the Complainant and its trade mark at the time of registration of the disputed domain name. In addition, the composition of the disputed domain name which incorporates the Complainant's BFGOODRICH mark in entirety with a misspelt word "tires" demonstrates that the Respondent registered the disputed domain name based on the attractiveness of the Complainant's trade mark, to divert Internet traffic to the disputed domain name. The Respondent's redirection of the disputed domain name to a PPC advertising website which generates revenue for himself is also evidence of bad faith. Moreover, the Respondent's failure to articulate any justification for the composition of the disputed domain name in response to the Complainant's cease-and-desist letter and the fact that an email server is configured on the disputed domain name further supports a finding bad faith.

B. Respondent

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

6. Discussion and Findings

6.1 Preliminary Issue: Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that (i) the Complainant is located in France and has no knowledge of Chinese, (ii) conducting the proceeding in Chinese would lay an undue burden on the Complainant, (iii) the disputed domain name includes only Latin characters which indicates that the Respondent has knowledge of English, and (iv) English is the primary language used around the world.

The Respondent did not comment on the Complainant's request for the language of the proceeding be English but sent email communications in English offering sale of the disputed domain name after being informed the institution of proceeding.

In exercising its discretion to use a language other than that of the registration agreement, 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).

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

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trade mark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.2.1 and 1.4.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other term, i.e. "tres" (a likely misspelling of "tires") here, may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Lastly, it is permissible for the Panel to ignore the generic Top-Level Domain ("gTLD"), in this case ".com", under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

Based on the available records, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Respondent has not provided evidence of a legitimate or noncommercial use of the disputed domain names or reasons to justify the choice of the disputed domain name that is confusingly similar to the Complainant's BFGOODRICH mark and the Complainant's official domain name (namely, <bfgoodrichtires.com>). Further, there is no indication to show that the Respondent is commonly known by

the disputed domain names or otherwise has rights or legitimate interests in any of them. In addition, the Complainant has not granted the Respondent a license or authorization to use the Complainant's mark or register the disputed domain name.

Separately, at the time of filing the Complaint and, at the date of this Decision, the disputed domain name resolved to an active PPC webpage that lists out multiple third-party links. Prior UDRP panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a bona fide offering of goods or services where such links compete with or capitalize on the reputation and goodwill of the Complainant's mark or otherwise mislead Internet users. [WIPO Overview 3.0](#), section 2.9.

None of the circumstances in paragraph 4(c) of the Policy are present in this case. For these reasons, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

Based on available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the widespread reputation of the Complainant's BFGOODRICH mark was recognized in previous UDRP decisions, for example *Compagnie Générale Des Etablissements Michelin v. Domain Admin, Whois Privacy Corp.*, WIPO Case No. [D2021-4060](#) and *Compagnie Générale des Etablissements Michelin, Michelin Recherche et Technique S.A. v. Kaheng Cheng*, WIPO Case No. [D2017-0233](#). The disputed domain name was registered long after the registration of the Complainant's BFGOODRICH mark. Search results using the key word "bfgoodrich" on Internet search engines direct Internet users to the Complainant and its business, which indicates that an exclusive connection between the BFGOODRICH mark and the Complainant has been established. As such, the Respondent either knew or should have known of the Complainant's BFGOODRICH mark when registering the disputed domain names, and has exercised "the kind of willful blindness that numerous panels have held support a finding of bad faith". See *Barclays Bank PLC v. Andrew Barnes*, WIPO Case No. [D2011-0874](#) and [WIPO Overview 3.0](#), section 3.2.2.

Section 3.1.4 of the [WIPO Overview 3.0](#) states that the "mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely known trade mark by an unaffiliated entity can by itself create a presumption of bad faith". In this case, the disputed domain name fully incorporates the Complainant's widely known BFGOODRICH mark in its entirety with a misspelling of the descriptive term "tires", thus creating a presumption of bad faith.

The disputed domain name currently directs Internet users to a parking website where Internet users are presented with different third-party links of a commercial nature. The adoption by the Respondent of the PPC business model using the Complainant's trade mark without authorization for the purpose of attracting Internet users for commercial gain, is an example of bad faith under the Policy, which in conjunction with the composition of the disputed domain name may lead Internet users to be confused into thinking, even if only initially, that these third-party links on the website at the disputed domain name are in some way endorsed by the Complainant. Such use constitutes evidence of bad faith registration and use as contemplated under paragraph 4(b)(iv) of the Policy.

Furthermore, the Panel considers that the nature of the inherently misleading disputed domain name, which includes the Complainant's trade mark in its entirety (and is confusingly similar to the official domain name used by the Complainant, namely <bfgoodrichtires.com>), further supports a finding of bad faith. [WIPO Overview 3.0](#), section 3.2.1.

The Panel also notes that an email server has been configured on the disputed domain name, indicating the possibility that the Respondent is engaged in a phishing scheme. See *Accor SA v. Domain Admin, C/O ID#10760, Privacy Protection Service INC d/b/a PrivacyProtect.org / Yogesh Bhardwaj*, WIPO Case No. [D2017-1225](#).

The Respondent has failed to rebut the Complainant's allegations of bad faith in this proceeding. Taking into account these circumstances, the Panel finds that: (i) the Respondent must have known of the Complainant before registering the disputed domain name and, (ii) considering the Respondent's lack of rights or legitimate interests, and (iii) by registering and using the disputed domain name as discussed above, the Panel is led to conclude that the disputed domain name was registered and is being used in bad faith.

Based on the available record, the Panel finds that the Complainant has established the third element 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 <bfgoodrichtres.com> be transferred to the Complainant.

/Rachel Tan/

Rachel Tan

Sole Panelist

Date: August 19, 2024