

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. Joshua Jones Case No. D2024-2674

1. The Parties

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

The Respondent is Joshua Jones, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <usmichelinman.com> (“Disputed Domain Name”) 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 July 1, 2024. On July 1, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On July 2, 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 (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 4, 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 on July 8, 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 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 response. Accordingly, the Center notified the Respondent’s default on July 30, 2024.

The Center appointed Gabriela Kennedy as the sole panelist in this matter on August 7, 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

The Complainant is a well-established leading tire company headquartered in France. The Complainant has presence in 171 countries, more than 124,000 employees, and operates 117 tire manufacturing facilities and sales agencies in 26 countries, including in the United States, where the Respondent is located. The Complainant has also published the world famous “MICHELIN Guide” that award stars for fine dining establishments for almost a century, and owns various word and figurative trademarks for or containing the term “MICHELIN” (“Complainant’s Trademark”).

The relevant trademark registrations include, inter alia, United States Registration No. 4126565 for MICHELIN, registered on April 10, 2012, in Classes 36, 37 and 39; United States Registration No. 3684424 for the figurative mark , registered on September 15, 2009, in Classes 3, 5, 7, 8, 9, 11, 12, 16, 17, 20, 21, 24, 25, 27 and 28; European Union Trade Mark No. 001791243 for MICHELIN, registered on October 24, 2001, in Classes 6, 7, 12, 17 and 28; and International Trademark Registration No. 771031 for MICHELIN, registered on June 11, 2001, in Classes 5, 7, 8, 9, 10, 11, 12, 16, 17, 18, 20, 21, 24, 25, 39 and 42 designating, inter alia, China, Germany, Spain, Italy, Portugal, and the Russian Federation.

The Complainant’s Trademark is fully incorporated in the Complainant’s domain names <michelin.com> and <michelinman.com> registered on December 1, 1993 and November 6, 2001 respectively, and resolves to the Complainant’s websites (“Complainant’s Websites”).

The Disputed Domain Name was registered on May 16, 2024. At the time of rendering this decision, the Disputed Domain Name resolved to a parked domain landing webpage hosting a number of commercial pay-per-click (“PPC”) links (“Respondent’s Website”). On May 24, 2024, the Complainant sent an email to the Registrar requesting it to put the Disputed Domain Name on status “ClientHold” and to deactivate the same.

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 contends that:

(a) The Disputed Domain Name is identical or confusingly similar to the Complainant’s Trademark. The Disputed Domain Name reproduces the Complainant’s Trademark in its entirety, with the only difference between the Disputed Domain Name and the Complainant’s Trademark being the additions of the geographical term “us” and descriptive term “man”. The latter term’s inclusion in the Disputed Domain Name further increases the likelihood of confusion with the Complainant’s Trademark as it refers to the Complainant’s well-known official mascot (registered as the “Bibendum” trademark), commonly referred to in English as the “Michelin Man” or “Michelin Tyre Man”, enhancing the false impression that the Disputed Domain Name is officially related to the Complainant and causing confusion to Internet users who may mistakenly believe that the Disputed Domain Name will direct them to an official website relating to the Complainant’s field of business. Furthermore, given the Complainant’s consistent and widespread use of its Trademark around the world, Internet users would reasonably assume that the Disputed Domain Name is owned or related to the Complainant.

(b) The Respondent has no rights or legitimate interests in the Disputed Domain Name. The Respondent is neither affiliated with the Complainant nor has it been authorised by the Complainant to use and register its Trademark, or to register any domain name incorporating the Complainant's Trademark. There is also no evidence that the Respondent is commonly known by the Disputed Domain Name or the Complainant's Trademark. Moreover, the Respondent cannot claim prior rights or legitimate interest in the Disputed Domain Name as the Complainant's registration and use of the Complainant's Trademark significantly predates that of the Respondent's registration of the Disputed Domain Name. As the Disputed Domain Name redirected Internet users to a parking webpage with commercial PPC links at the time of the Complaint, it cannot be inferred that the Respondent is making a bona fide offering of goods or services, nor a legitimate non-commercial or fair use of the Disputed Domain Name. Furthermore, as the Disputed Domain Name wholly incorporates the Complainant's Trademark and added the term "man", which directly targets the Complainant's official mascot, it shows that the Respondent intended to create a false impression that the Disputed Domain Name is endorsed by the Complainant. The fact that an email server has been configured on the Disputed Domain Name indicates a risk that the Respondent is engaging in a phishing scheme, which further suggests that the Disputed Domain Name is not being used for any legitimate business.

(c) The Respondent has registered the Disputed Domain Name and is using it in bad faith. It is implausible that the Respondent was unaware of the Complainant's Trademark prior to registering the Disputed Domain Name, given the worldwide reputation of the Complainant's brand and the fact that the Complainant's Trademark was registered significantly before registration of the Disputed Domain Name. Moreover, the fact that the Disputed Domain Name both wholly incorporates the Complainant's Trademark and makes reference to "Michelin Man", which is known as the Complainant's official mascot, confirms that the Respondent was aware of the Complainant and its Trademark when registering the Disputed Domain Name, the act of which suggests opportunistic bad faith on the part of the Respondent. Even the Respondent was not aware of the Complainant's well established brand and did not think of conducting a trademark search online, a simple Internet search of the word "Michelin" or "Michelin Man" would have easily revealed the existence of the Complainant and the Complainant's Trademark. Furthermore, the Respondent is using the Disputed Domain Name to falsely imply that it originates from, or is endorsed by, the Complainant, as well as to intentionally attract Internet users to the Respondent's Website by creating a likelihood of confusion with the Complainant's Trademarks as to the source, sponsorship, affiliation or endorsement of the services offered on the Respondent's Website. The Respondent is likely to have registered the Disputed Domain Name to divert Internet traffic away from the Complainant's Websites to a parking page with commercial PPC links, thus generating revenue for the Respondent. There is also a risk that the Respondent is engaging in a phishing scheme as an email server has been configured on the Disputed Domain Name.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements:

- (i) the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (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 by the Respondent in bad faith.

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 trademark and the Disputed Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of the Complainant's Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the Complainant's Trademark is reproduced within the Disputed Domain Name. Accordingly, the Disputed Domain Name is confusingly similar to the Complainant's Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, in this case "us" and "man", 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 Complainant's Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8. Furthermore, it is well established that the gTLD, ".com" in this case, may be disregarded. See section 1.11.1 of the [WIPO Overview 3.0](#).

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.

The Panel agrees with the Complainant that there is no evidence to show that the Respondent has trademark rights corresponding to the Disputed Domain Name, or that the Respondent has become known by the Disputed Domain Name. The Panel further notes the distinctiveness and worldwide reputation of the Complainant's Trademark, and the fact that the Complainant has provided no licence or authorization of any kind to the Respondent to use the Complainant's Trademark or to apply for or use any domain name incorporating the Complainant's Trademark. Panels have previously held that rights or legitimate interests cannot be created where the user of the domain name at issue would not choose such names unless he was seeking to create an impression of association with the complainant (see *LEGO Juris A/S v. DomainPark Ltd, David Smith, Above.com Domain Privacy, Transure Enterprise Ltd, Host master*, WIPO Case No. [D2010-0138](#); see also *Drexel University v. David Broud*, WIPO Case No. [D2001-0067](#)). The Respondent would therefore likely not have adopted the Complainant's Trademark if not for the purpose of creating an impression that the Disputed Domain Name is associated with, or originates from, the Complainant, especially given that the Disputed Domain Name mirrors the Complainant's <michelinman.com> domain name. Thus, the Disputed Domain Name carries a risk of implied affiliation as it effectively suggests sponsorship or endorsement of the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

The Panel agrees with the Complainant that there is no evidence to show that the Respondent has trademark rights corresponding to the Disputed Domain Name, or to suggest that the Respondent's use of,

or demonstrable preparations to use the Disputed Domain Name or a name corresponding to the Disputed Domain Name, is in connection with a bona fide offering of goods or services or can be regarded as legitimate noncommercial or fair use. This finding is further supported by the fact that the Respondent has been using the Disputed Domain Name for commercial gain by generating revenue via PPC links on the Respondent's Website. Panels have previously found that the use of a domain name cannot represent a bona fide offering where the sole purpose of the disputed domain name is to resolve to PPC advertising websites and collect click-through revenue from advertising links (see *VKR Holding A/S v. Wu Yu*, WIPO Case No. [D2022-0744](#); see also *Virgin Enterprises Limited v. LINYANXIAO aka lin yanxiao*, WIPO Case No. [D2016-2302](#); and *Legacy Health System v. Nijat Hassanov*, WIPO Case No. [D2008-1708](#)).

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 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 it is difficult to conceive of any plausible use of the Disputed Domain Name that would amount to good faith use, given that it has incorporated the Complainant's Trademark in its entirety. The Respondent intentionally registered the Disputed Domain Name to attract Internet users to the Respondent's Website for commercial gain by creating a likelihood of confusion with the Complainant's Trademark. See section 3.1 of the [WIPO Overview 3.0](#). Also, as discussed above, the Respondent lacks any rights or legitimate interests in the Disputed Domain Name (see *Washington Mutual, Inc. v. Ashley Khong*, WIPO Case No. [D2005-0740](#)). Further, the Respondent failed to respond to the Complainant's contentions and has provided no evidence of its actual or contemplated good faith use of the Disputed Domain Name.

Panels have previously held that a finding of bad faith can be established where a complainant's trademark is shown to be well-known or in wide use at the time of registration of the disputed domain name (see *LEGO Juris A/S v. store24hour*, WIPO Case No. [D2013-0091](#)). The Respondent is likely to have been fully aware of the Complainant and the Complainant's Trademark when it registered the Disputed Domain Name, given the well-known nature of the Complainant's brand, evidenced by the various trademark registrations for the Complainant's Trademark across the globe that was put into use well before the Respondent registered the Disputed Domain Name. The Panel also notes the Respondent's unauthorised use of the Complainant's Trademark in the Disputed Domain Name, the fact that the Disputed Domain Name is a reference to the Complainant's official mascot, and the fact that the disputed domain name only differs from the Complainant's registered <michelinman.com> domain name by the addition of "us".

While the intention to earn commercial revenue from PPC links is not in and of itself evidence of bad faith, previous panels have found that the use of a domain name deceptively similar to a complainant's trademark to obtain click-through revenue supports a finding of bad faith use (see *VKR Holding A/S v. Wu Yu*, WIPO Case No. [D2022-0744](#)). Given that the Disputed Domain Name wholly incorporates the Complainant's Trademark and made references to the Complainant's official mascot, the Panel therefore finds it difficult to conceive that the Respondent is not using the Disputed Domain Name to intentionally attract, for commercial gain, Internet users to the Respondent's Website by creating a likelihood of confusion with Complainant's Trademark as to the source, sponsorship, affiliation or endorsement of the Respondent's Website.

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 <usmichelinman.com> be transferred to the Complainant.

/Gabriela Kennedy/

Gabriela Kennedy

Sole Panelist

Date: August 21, 2024