

ADMINISTRATIVE PANEL DECISION

Compagnie Générale des Etablissements Michelin v. Jorge Paulo Case No. D2024-5148

1. The Parties

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

The Respondent is Jorge Paulo, Brazil.

2. The Domain Name and Registrar

The disputed domain name <michelinbr.com> is registered with INWX GmbH & Co. KG (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 13, 2024. On December 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 17, 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 (REDACTED FOR PRIVACY, My Domain Provider) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 17, 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 December 18, 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 December 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 8, 2025. The Respondent did not submit any response. However, email messages from a third party were received on December 20, 2024, and January 7, 2025. Accordingly, the Center notified the Commencement of Panel Appointment Process on January 9, 2025.

The Center appointed Ingrīda Kariņa-Bērziņa as the sole panelist in this matter on January 20, 2025. 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 global tire manufacturer established in France in 1889 and operating internationally today. It is the proprietor of numerous registrations for its MICHELIN mark, including the following:

- International Trademark Registration No. 1780534 for MICHELIN (word mark) registered on October 20, 2023 for goods and services in classes 9, 10, 11, 19, 20, 22, 35, 41, 42 and 43;
- European Union Trade Mark No. 001791243 for MICHELIN (word mark), registered on October 24, 2001 for goods in classes 6, 7, 12, 17 and 28;
- Brazilian Trademark No. 002708361 for MICHELIN (word mark), registered on July 12, 1962 for goods in classes 8 and 10.

The Complainant operates its primary business website at the domain name <michelin.com>, which it registered in 1993.

The disputed domain name was registered on September 11, 2024. At the time of the Complaint and of this Decision, it did not resolve to an active website, but to a page stating “This account has been suspended.” The record reflects that email exchange (“MX”) servers have been configured for the disputed domain name.

The Complainant sent a cease-and-desist letter to the Respondent on October 1, 2024, with several reminders thereafter. The record does not reflect the Respondent’s response thereto. The Complainant sent a notice letter to the hosting provider associated with the disputed domain name on November 12, 2024, to which it received an acknowledgment on November 14, 2024, and a reply on November 26, 2024. The hosting provider sent a message to the Center in Portuguese on December 20, 2024, and in English on January 7, 2025.

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 it is the top-selling tire company worldwide. It is present in 170 countries with more than 124,000 employees and 117 tire manufacturing and sales locations. It first opened a commercial office in Brazil in 1927 and continues to operate in that country. The Complainant also operates in the Netherlands, where the Respondent is allegedly located. The disputed domain name contains the Complainant’s well-known MICHELIN mark in its entirety, together with the letters “br,” which is the country-code abbreviation for Brazil. The Respondent is not affiliated with the Complainant in any way. The disputed domain name is not being used for a website nor for any other legitimate purpose, but MX records have been configured for it, indicating a risk of phishing. The disputed domain name is being passively held in bad faith.

B. Respondent

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

On January 7, 2025, a third party identifying itself as counsel for the hosting provider sent an email to the Center stating that it was not a party to the dispute and was unable to comply with any requests regarding the website to which the disputed domain name resolves.

6. Discussion and Findings

Paragraph 4(a) of the UDRP requires the Complainant to make out all three 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 Respondent has registered and is using the disputed domain name in bad faith.

Under paragraph 15(a) of the Rules, “[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

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 a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the Complainant’s MICHELIN 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 terms (here, “br”) may bear on assessment of the second and third elements, the Panel finds the addition of such a 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.

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 Panel notes that the composition of the disputed domain name, which reflects the MICHELIN mark followed by the letters "br" – a common abbreviation for Brazil. Therefore, the Panel finds that the nature of the disputed domain name carries a risk of implied affiliation to the Complainant that cannot constitute fair use. [WIPO Overview 3.0](#), section 2.5.1.

The Respondent has not put forward any rights or legitimate interests. There is no evidence that the Respondent is commonly known by the disputed domain name, or that there are any circumstances or activities that would establish the Respondent's rights therein. Rather, the disputed domain name is inactive. Under these circumstances, such use cannot establish rights or legitimate interests. See [WIPO Overview 3.0](#), section 2.5.2, and cases cited thereunder.

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 disputed domain name was registered at least 60 years after the Complainant registered its MICHELIN mark. The composition of the disputed domain name reflects the Complainant's MICHELIN mark together with the letters "br," referring to the country-code abbreviation for Brazil, in which the Complainant also operates. Such composition indicates that the Respondent sought to create the appearance of an association with the Complainant.

Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the reputation of the Complainant's trademark, and the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Moreover, the record reflects that the Respondent has configured MX records for the disputed domain name. In light of the finding that the Respondent has no rights in the disputed domain name, the Panel considers that preparatory actions for sending emails from the inherently misleading disputed domain name indicate a risk that the Respondent may use the disputed domain name in bad faith.

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 <michelinbr.com> be transferred to the Complainant.

/Ingrīda Kariņa-Bērziņa/

Ingrīda Kariņa-Bērziņa

Sole Panelist

Date: January 28, 2025